



IOWA ADMINISTRATIVE BULLETIN

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July 3, 2019

NUMBER 1
Pages 1 to 68

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PREFACE

The Iowa Administrative Bulletin is published biweekly pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action and rules adopted by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Regulatory Analyses; effective date delays and objections filed by the Administrative Rules Review Committee; Agenda for monthly Administrative Rules Review Committee meetings; and other materials deemed fitting and proper by the Administrative Rules Review Committee.

The Bulletin may also contain public funds interest rates [12C.6]; usury rates [535.2(3)“a”]; agricultural credit corporation maximum loan rates [535.12]; and other items required by statute to be published in the Bulletin.

PLEASE NOTE: Underscore indicates new material added to existing rules; ~~strike-through~~ indicates deleted material.

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Publications Editing Office (Administrative Code)

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Telephone: (515)281-3355

Email: Jack.Ewing@legis.iowa.gov
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CITATION of Administrative Rules

The Iowa Administrative Code shall be cited as (agency identification number) IAC (chapter, rule, subrule, lettered paragraph, or numbered subparagraph).

441 IAC 79	(Chapter)
441 IAC 79.1	(Rule)
441 IAC 79.1(1)	(Subrule)
441 IAC 79.1(1)“a”	(Paragraph)
441 IAC 79.1(1)“a”(1)	(Subparagraph)

The Iowa Administrative Bulletin shall be cited as IAB (volume), (number), (publication date), (page number), (ARC number).

IAB Vol. XII, No. 23 (5/16/90) p. 2050, ARC 872A

NOTE: In accordance with Iowa Code section 2B.5A, a rule number within the Iowa Administrative Code includes a reference to the statute which the rule is intended to implement: 441—79.1(249A).

Schedule for Rule Making 2019

NOTICE† SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Dec. 26 '18	Jan. 16 '19	Feb. 5 '19	Feb. 20 '19	Feb. 22 '19	Mar. 13 '19	Apr. 17 '19	July 15 '19
Jan. 11	Jan. 30	Feb. 19	Mar. 6	Mar. 8	Mar. 27	May 1	July 29
Jan. 25	Feb. 13	Mar. 5	Mar. 20	Mar. 22	Apr. 10	May 15	Aug. 12
Feb. 8	Feb. 27	Mar. 19	Apr. 3	Apr. 5	Apr. 24	May 29	Aug. 26
Feb. 22	Mar. 13	Apr. 2	Apr. 17	Apr. 19	May 8	June 12	Sep. 9
Mar. 8	Mar. 27	Apr. 16	May 1	May 3	May 22	June 26	Sep. 23
Mar. 22	Apr. 10	Apr. 30	May 15	**May 15**	June 5	July 10	Oct. 7
Apr. 5	Apr. 24	May 14	May 29	May 31	June 19	July 24	Oct. 21
Apr. 19	May 8	May 28	June 12	June 14	July 3	Aug. 7	Nov. 4
May 3	May 22	June 11	June 26	**June 26**	July 17	Aug. 21	Nov. 18
May 15	June 5	June 25	July 10	July 12	July 31	Sep. 4	Dec. 2
May 31	June 19	July 9	July 24	July 26	Aug. 14	Sep. 18	Dec. 16
June 14	July 3	July 23	Aug. 7	Aug. 9	Aug. 28	Oct. 2	Dec. 30
June 26	July 17	Aug. 6	Aug. 21	**Aug. 21**	Sep. 11	Oct. 16	Jan. 13 '20
July 12	July 31	Aug. 20	Sep. 4	Sep. 6	Sep. 25	Oct. 30	Jan. 27 '20
July 26	Aug. 14	Sep. 3	Sep. 18	Sep. 20	Oct. 9	Nov. 13	Feb. 10 '20
Aug. 9	Aug. 28	Sep. 17	Oct. 2	Oct. 4	Oct. 23	Nov. 27	Feb. 24 '20
Aug. 21	Sep. 11	Oct. 1	Oct. 16	Oct. 18	Nov. 6	Dec. 11	Mar. 9 '20
Sep. 6	Sep. 25	Oct. 15	Oct. 30	**Oct. 30**	Nov. 20	Dec. 25	Mar. 23 '20
Sep. 20	Oct. 9	Oct. 29	Nov. 13	**Nov. 13**	Dec. 4	Jan. 8 '20	Apr. 6 '20
Oct. 4	Oct. 23	Nov. 12	Nov. 27	Nov. 29	Dec. 18	Jan. 22 '20	Apr. 20 '20
Oct. 18	Nov. 6	Nov. 26	Dec. 11	**Dec. 11**	Jan. 1 '20	Feb. 5 '20	May 4 '20
Oct. 30	Nov. 20	Dec. 10	Dec. 25	**Dec. 26**	Jan. 15 '20	Feb. 19 '20	May 18 '20
Nov. 13	Dec. 4	Dec. 24	Jan. 8 '20	**Jan. 8 '20**	Jan. 29 '20	Mar. 4 '20	June 1 '20
Nov. 29	Dec. 18	Jan. 7 '20	Jan. 22 '20	Jan. 24 '20	Feb. 12 '20	Mar. 18 '20	June 15 '20
Dec. 11	Jan. 1 '20	Jan. 21 '20	Feb. 5 '20	Feb. 7 '20	Feb. 26 '20	Apr. 1 '20	June 29 '20
Dec. 26	Jan. 15 '20	Feb. 4 '20	Feb. 19 '20	Feb. 21 '20	Mar. 11 '20	Apr. 15 '20	July 13 '20

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
3	Friday, July 12, 2019	July 31, 2019
4	Friday, July 26, 2019	August 14, 2019
5	Friday, August 9, 2019	August 28, 2019

PLEASE NOTE:

Rules will not be accepted by the Publications Editing Office after **12 o'clock noon** on the filing deadline unless prior approval has been received from the Administrative Rules Coordinator and the Administrative Code Editor.

If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

†To allow time for review by the Administrative Rules Coordinator prior to the Notice submission deadline, Notices should generally be submitted in RMS four or more working days in advance of the deadline.

****Note change of filing deadline****

The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, July 9, 2019, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

NOTE: See also Agenda published in the June 19, 2019, Iowa Administrative Bulletin.

DENTAL BOARD[650]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Teledentistry, 27.12, 27.13	Amended Notice	ARC 4534C	7/3/19
Prohibited grounds for discipline—default or delinquency on student loan debt or service obligation, amend ch 30; rescind ch 34	Notice	ARC 4526C	7/3/19
Military service and veteran reciprocity for licensing, 52.1, 52.3	Notice	ARC 4525C	7/3/19

EDUCATION DEPARTMENT[281]

General accreditation standards, 12.5, 12.8	Filed	ARC 4527C	7/3/19
Gap tuition assistance program—eligibility criteria, assessment, redistribution of funds, amendments to ch 25	Notice	ARC 4524C	7/3/19
Medium of instruction for students of limited English proficiency, 60.3(4)	Filed	ARC 4528C	7/3/19
Operational function sharing eligibility—master social workers, independent social workers, removal of supplemental weighting limit, 98.15	Filed	ARC 4529C	7/3/19

LABOR SERVICES DIVISION[875]

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

OSHA standards—civil penalties, adoption by reference; child labor—definition of "willfully volunteering"; construction contractor registration, amend chs 1, 3, 4, 10, 26, 32, 150	Notice	ARC 4520C	7/3/19
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NATURAL RESOURCE COMMISSION[571]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Antlerless deer hunting—January licenses, county license quotas, 106.6	Filed	ARC 4531C	7/3/19
Increased bag limits for bobcats, 108.7(3)	Filed	ARC 4530C	7/3/19

PUBLIC SAFETY DEPARTMENT[661]

Fire service training bureau; fire fighter training, certification, and funds, amendments to chs 53, 251, 259	Notice	ARC 4522C	7/3/19
Safety standards—liquefied petroleum gas, 226.1, 226.4, 226.5, 226.8	Notice	ARC 4521C	7/3/19

REGENTS BOARD[681]

Parking and vehicle registration at universities, 4.71	Notice of Termination	ARC 4533C	7/3/19
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REVENUE DEPARTMENT[701]

Sourcing of taxable services, 223.2, 26.17(3)	Notice	ARC 4523C	7/3/19
Remote sales and marketplace sales, ch 215	Amended Notice	ARC 4535C	7/3/19

TRANSPORTATION DEPARTMENT[761]

Traffic safety improvement program, amendments to ch 164	Filed	ARC 4532C	7/3/19
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VOTER REGISTRATION COMMISSION[821]

Voter registration forms produced by electronic poll books, 2.17	Notice	ARC 4518C, also Filed Emergency	ARC 4519C	7/3/19
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ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

Regular, statutory meetings are held the second Tuesday of each month at the seat of government as provided in Iowa Code section 17A.8. A special meeting may be called by the Chair at any place in the state and at any time.

Senator Waylon Brown
109 South Summer Street
St. Ansgar, Iowa 50472

Senator Mark Costello
37265 Rains Avenue
Imogene, Iowa 51645

Senator Robert Hogg
P.O. Box 1361
Cedar Rapids, Iowa 52406

Senator Pam Jochum
2368 Jackson Street
Dubuque, Iowa 52001

Senator Zach Whiting
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4470 Highway 71
Sioux Rapids, Iowa 50585

Representative Joe Mitchell
Mount Pleasant, Iowa

Representative Amy Nielsen
168 Lockmoor Circle
North Liberty, Iowa 52317

Representative Rick Olson
3012 East 31st Court
Des Moines, Iowa 50317

Sam Langholz
Administrative Rules Coordinator
Governor's Ex Officio Representative
Capitol, Room 18
Des Moines, Iowa 50319
Telephone: (515)281-5211

ACCOUNTANCY EXAMINING BOARD[193A]

CPA examinations, 3.6(1) IAB 6/19/19 ARC 4507C	Professional Licensing Bureau Offices 200 E. Grand Ave., Suite 350 Des Moines, Iowa	July 10, 2019 9 to 10 a.m.
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CHIEF INFORMATION OFFICER, OFFICE OF THE[129]

Broadband—infrastructure, targeted service areas, project certification, grants program, amendments to chs 20 to 22 IAB 6/19/19 ARC 4505C	OCIO Innovation Lab A Level, Room 12 Hoover State Office Bldg. Des Moines, Iowa	July 10, 2019 10 to 11 a.m.
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DENTAL BOARD[650]

Teledentistry, 27.12, 27.13 IAB 7/3/19 ARC 4534C	Board Office, Suite D 400 S.W. 8th St. Des Moines, Iowa	July 24, 2019 2 p.m.
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EDUCATIONAL EXAMINERS BOARD[282]

Teaching license suspension or revocation due to student loan default—elimination, rescind ch 9; amend chs 11, 25 IAB 6/19/19 ARC 4503C	Room 3 Southwest Grimes State Office Bldg. Des Moines, Iowa	July 10, 2019 1 p.m.
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Teaching licensure—nonrenewable temporary initial license, 13.6 IAB 6/19/19 ARC 4502C	Room 3 Southwest Grimes State Office Bldg. Des Moines, Iowa	July 10, 2019 1 p.m.
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Child abuse and dependent adult abuse identification and reporting training, amendments to chs 15, 19, 20, 22 to 24 IAB 6/19/19 ARC 4504C	Room 3 Southwest Grimes State Office Bldg. Des Moines, Iowa	July 10, 2019 1 p.m.
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Preservice substitute authorization, 22.2(4) IAB 6/19/19 ARC 4501C	Room 3 Southwest Grimes State Office Bldg. Des Moines, Iowa	July 10, 2019 1 p.m.
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EDUCATION DEPARTMENT[281]

Gap tuition assistance program—eligibility criteria, assessment, redistribution of funds, amendments to ch 25 IAB 7/3/19 ARC 4524C	ICN Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	July 23, 2019 9 to 10 a.m.
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HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]

Flood recovery fund, 14.12 IAB 6/19/19 ARC 4498C	Cyclones Conference Room, Suite 500 7900 Hickman Rd. Windsor Heights, Iowa	July 9, 2019 10 to 11 a.m.
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INSURANCE DIVISION[191]

Residential and motor vehicle services contracts, amend ch 103; rescind ch 104 IAB 6/19/19 ARC 4496C	Division Offices, Fourth Floor Two Ruan Center 601 Locust St. Des Moines, Iowa	July 16, 2019 2 to 3 p.m.
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LABOR SERVICES DIVISION[875]

Organization of and procedures before the division; civil penalties for child labor violations; asbestos abatement; technical and statutory changes; IOSH enforcement, research, statistics, consultation and education, amend chs 1, 4, 8, 32, 35, 38, 155, 156; rescind ch 2 IAB 6/19/19 ARC 4497C	150 Des Moines St. Des Moines, Iowa	July 16, 2019 9 a.m. (If requested)
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OSHA standards—civil penalties, adoption by reference; child labor—definition of “willfully volunteering”; construction contractor registration, amend chs 1, 3, 4, 10, 26, 32, 150 IAB 7/3/19 ARC 4520C	150 Des Moines St. Des Moines, Iowa	July 29, 2019 1:30 p.m. (If requested)
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REVENUE DEPARTMENT[701]

Remote sales and marketplace sales, ch 215 IAB 7/3/19 ARC 4535C	Room 430, Fourth Floor Hoover State Office Bldg. Des Moines, Iowa	July 23, 2019 9 to 10 a.m.
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UTILITIES DIVISION[199]

Intrastate gas pipelines and underground gas storage, amendments to ch 10 IAB 6/19/19 ARC 4506C	Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa	August 1, 2019 1 to 3 p.m.
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VOLUNTEER SERVICE, IOWA COMMISSION ON[817]

Future ready Iowa volunteer mentor program, ch 13 IAB 6/19/19 ARC 4508C	Central First Floor Conference Room Economic Development Authority 200 E. Grand Ave. Des Moines, Iowa	July 9, 2019 11 a.m.
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The following list will be updated as changes occur.

“Umbrella” agencies and elected officials are set out below at the left-hand margin in CAPITAL letters.

Divisions (boards, commissions, etc.) are indented and set out in lowercase type under their statutory “umbrellas.”

Other autonomous agencies are included alphabetically in SMALL CAPITALS at the left-hand margin.

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ARC 4534C**DENTAL BOARD[650]****Amended Notice of Intended Action****Providing for a public hearing on rule making related to teledentistry**

The Notice of Intended Action published in the Iowa Administrative Bulletin on March 27, 2019, as **ARC 4359C**, proposes to amend Chapter 27, “Standards of Practice and Principles of Professional Ethics,” Iowa Administrative Code. In order to receive oral comments concerning **ARC 4359C**, the Dental Board hereby gives notice that a public hearing will be held as follows:

July 24, 2019
2 p.m.

Board Office, Suite D
400 S.W. Eighth Street
Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 147.76, 153.33 and 272C.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 147.2, 153.13, 153.15, 153.17, and 153.38.

Purpose and Summary

The primary purpose of these proposed amendments is to define standards of practice for teledentistry. Technological advances have made it possible for dental services to be provided without an on-site dentist. New rule 650—27.12(153) expands access to dental services utilizing available technology. The new rule also establishes criteria to safely provide dental services while maintaining patient confidentiality.

A formal request was received to hold a public hearing.

Fiscal Impact, Jobs Impact, Waivers

Statements related to the fiscal impact, jobs impact, and waiver of this rule making may be found in the preamble of **ARC 4359C**.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

ARC 4526C**DENTAL BOARD[650]****Notice of Intended Action****Proposing rule making related to student loan debt or service obligation default or delinquency and providing an opportunity for public comment**

The Dental Board hereby proposes to amend Chapter 30, “Discipline,” and to rescind Chapter 34, “Student Loan Default/Noncompliance with Agreement for Payment of Obligation,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 272C.4 as amended by 2019 Iowa Acts, Senate File 304, section 2.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2019 Iowa Acts, Senate File 304.

Purpose and Summary

During the 2019 Legislative Session, a change was made to the Iowa Code to repeal Iowa Code sections 261.121 through 261.127, effective July 1, 2019, and prohibit the suspension or revocation of a license issued by the Board to a person who is in default or is delinquent on repayment or a service obligation under federal or state postsecondary educational loans or private services-conditional postsecondary tuition assistance solely on the basis of such default or delinquency. This proposed rule making implements this change.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to rule 650—7.4(17A,147,153).

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Board no later than 4:30 p.m. on July 24, 2019. Comments should be directed to:

Steve Garrison
Iowa Dental Board
400 S.W. Eighth Street, Suite D
Des Moines, Iowa 50309
Phone: 515.281.3248
Fax: 515.281.7969
Email: steven.garrison@iowa.gov

DENTAL BOARD[650](cont'd)

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Adopt the following **new** rule 650—30.5(272C):

650—30.5(272C) Prohibited grounds for discipline. The board shall not suspend or revoke the license of a person who is in default or is delinquent on repayment or a service obligation under federal or state postsecondary educational loans or public or private services-conditional postsecondary tuition assistance solely on the basis of such default or delinquency.

ITEM 2. Amend **650—Chapter 30**, implementation sentence, as follows:

These rules are intended to implement ~~Iowa Code sections 261.121 to 261.127~~ and Iowa Code chapters 147_; 153_; 252J_; 272C; as amended by 2019 Iowa Acts, Senate File 304; and 598.

ITEM 3. Rescind and reserve **650—Chapter 34**.

ARC 4525C**DENTAL BOARD[650]****Notice of Intended Action****Proposing rule making related to military service and veteran reciprocity and providing an opportunity for public comment**

The Dental Board hereby proposes to amend Chapter 52, “Military Service and Veteran Reciprocity,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 147.76.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 272C.4 as amended by 2019 Iowa Acts, House File 288.

Purpose and Summary

During the 2019 Legislative Session, a change was made to the Iowa Code to require agencies to establish procedures to expedite the licensing of an individual who is licensed in a similar profession or occupation in another state and who is the spouse of an active duty member of the military forces of the United States. This proposed rule making implements this change.

DENTAL BOARD[650](cont'd)

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to rule 650—7.4(17A,147,153).

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Board no later than 4:30 p.m. on July 24, 2019. Comments should be directed to:

Steve Garrison
Iowa Dental Board
400 S.W. Eighth Street, Suite D
Des Moines, Iowa 50309
Phone: 515.281.3248
Fax: 515.281.7969
Email: steven.garrison@iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule **650—52.1(85GA, ch1116)**, parenthetical implementation statute, as follows:

650—52.1(85GA, ch1116 35) Definitions.

ITEM 2. Adopt the following **new** definition of “Spouse” in rule **650—52.1(85GA, ch1116)**:
“Spouse” means a spouse of an active duty member of the military forces of the United States.

ITEM 3. Amend rule **650—52.2(85GA, ch1116)**, parenthetical implementation statute, as follows:

650—52.2(85GA, ch1116 35) Military education, training, and service credit.

ITEM 4. Amend rule 650—52.3(85GA, ch1116) as follows:

650—52.3(85GA, ch1116 35) Veteran or spouse reciprocity.

DENTAL BOARD[650](cont'd)

52.3(1) A veteran or spouse with an unrestricted professional license in another jurisdiction may apply for licensure in Iowa through reciprocity. A veteran or spouse must pass any examinations required for licensure to be eligible for licensure through reciprocity. A fully completed application for licensure submitted by a veteran or spouse under this subrule shall be given priority and shall be expedited.

52.3(2) An application for licensure by reciprocity shall contain all of the information required of all applicants for licensure who hold unrestricted licenses in other jurisdictions and who are applying for licensure by reciprocity including, but not limited to, completion of all required forms, payment of applicable fees, disclosure of criminal or disciplinary history, and, if applicable, a criminal history background check. The applicant shall use the same forms as any other applicant for licensure by reciprocity and shall additionally provide such documentation as is reasonably needed to verify the applicant's status as a veteran under Iowa Code section 35.1(2) or as a spouse.

52.3(3) Upon receipt of a fully completed licensure application, the board shall promptly determine if the professional or occupational licensing requirements of the jurisdiction where the veteran or spouse is licensed are substantially equivalent to the licensing requirements in Iowa. The board shall make this determination based on information supplied by the applicant and such additional information as the board may acquire from the applicable jurisdiction. The board may consider the following factors in determining substantial equivalence: scope of practice, education and coursework, degree requirements, postgraduate experience, and examinations required for licensure.

52.3(4) The board shall promptly grant a license to the veteran or spouse if the veteran or spouse is licensed in the same or similar profession in another jurisdiction whose licensure requirements are substantially equivalent to those required in Iowa, unless the applicant is ineligible for licensure based on other grounds, for example, the applicant's disciplinary or criminal background.

52.3(5) If the board determines that the licensure requirements in the jurisdiction in which the veteran or spouse is licensed are not substantially equivalent to those required in Iowa, the board shall promptly inform the veteran or spouse of the additional experience, education, or examinations required for licensure in Iowa. Unless the applicant is ineligible for licensure based on other grounds, such as disciplinary or criminal background, the following shall apply:

a. If a veteran or spouse has not passed the required examination(s) for licensure, the veteran or spouse may not be issued a provisional license, but may request that the licensure application be placed in pending status for up to one year or as mutually agreed to provide the veteran or spouse with the opportunity to satisfy the examination requirements.

b. If additional experience or education is required in order for the applicant's qualifications to be considered substantially equivalent, the applicant may request that the board issue a provisional license for a specified period of time during which the applicant will successfully complete the necessary experience or education. The board shall issue a provisional license for a specified period of time upon such conditions as the board deems reasonably necessary to protect the health, welfare or safety of the public unless the board determines that the deficiency is of a character that the public health, welfare or safety will be adversely affected if a provisional license is granted.

c. If a request for a provisional license is denied, the board shall issue an order fully explaining the decision and shall inform the applicant of the steps the applicant may take in order to receive a provisional license.

d. If a provisional license is issued, the application for full licensure shall be placed in pending status until the necessary experience or education has been successfully completed or the provisional license expires, whichever occurs first. The board may extend a provisional license on a case-by-case basis for good cause.

52.3(6) A veteran or spouse who is aggrieved by the board's decision to deny an application for a reciprocal license or a provisional license or is aggrieved by the terms under which a provisional license will be granted may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case shall be made within 30 days of issuance of the board's decision. No fees or costs shall be assessed against the veteran or spouse in connection with a contested case conducted pursuant to this subrule.

DENTAL BOARD[650](cont'd)

ITEM 5. Amend **650—Chapter 52**, implementation sentence, as follows:
These rules are intended to implement ~~2014 Iowa Acts, chapter 1116, division VI~~ Iowa Code chapter 35 and 2019 Iowa Acts, House File 288.

ARC 4524C

EDUCATION DEPARTMENT[281]

Notice of Intended Action

Proposing rule making related to gap tuition assistance program and providing an opportunity for public comment

The State Board of Education hereby proposes to amend Chapter 25, “Pathways for Academic Career and Employment Program; Gap Tuition Assistance Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 256.7(5).

State or Federal Law Implemented

This rule making implements, in whole or in part, 2019 Iowa Acts, House File 758, division III, sections 21 through 28.

Purpose and Summary

The proposed amendments to Chapter 25 reflect changes enacted by 2019 Iowa Acts, House File 758. The Gap Tuition Assistance Program provides need-based tuition assistance to eligible applicants enrolled in approved noncredit training programs. These amendments allow community colleges to be more responsive to the needs of applicants and surrounding communities. Item 1 modifies one eligibility criterion, reducing the number of months for which an applicant is required to provide evidence of family income from six to three and adding a life-changing event as a qualifying eligibility factor. Item 2 changes several erroneous references to Division II of Chapter 25 to refer to Division III. Item 3 provides the community college discretion to approve an eligible applicant for funding in more than one eligible program. Item 4 provides greater flexibility in the assessment used to evaluate the skills and competencies of individuals applying for assistance. Item 5 provides explicit authority for the Iowa Department of Education, in consultation with the community colleges, to redistribute available funds to ensure efficient operation of the Gap Tuition Assistance Program, targeting regions with greater demand for services.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

An agencywide waiver provision is provided in 281—Chapter 4.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on July 23, 2019. Comments should be directed to:

EDUCATION DEPARTMENT[281](cont'd)

Nicole Proesch
 Department of Education
 Grimes State Office Building, Second Floor
 Des Moines, Iowa 50319-0416
 Phone: 515.281.8661
 Email: nicole.proesch@iowa.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

July 23, 2019
 9 to 10 a.m.

ICN Room, Second Floor
 Grimes State Office Building
 East 14th Street and Grand Avenue
 Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs by calling 515.281.5295.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend subparagraph **25.21(1)“a”(1)** as follows:

(1) The applicant's family income for the ~~six~~ three months prior to the date of application, or documentation of a life-changing event.

ITEM 2. Strike “Division II” wherever it appears in paragraphs **25.21(2)“a,” “b,” “e,” and “f,”** rule **281—25.25(260I)**, and subrule **25.26(1)**, and insert “Division III” in lieu thereof.

ITEM 3. Amend paragraph **25.21(2)“d”** as follows:

d. ~~An~~ At the discretion of the community college, an applicant shall not may be approved for tuition assistance under Division ~~II~~ III of this chapter for more than one eligible certificate program.

ITEM 4. Amend rule 281—25.24(260I) as follows:

281—25.24(260I) Initial assessment. An eligible applicant for tuition assistance under Division ~~II~~ III of this chapter shall complete an initial assessment administered by the community college receiving the application to determine the applicant's readiness to complete an eligible certificate program. The assessment shall include ~~assessments for completion of a national career readiness certificate, including the areas of reading for information, applied and mathematics, and locating information. An applicant must achieve at least a national bronze level certificate defined as a minimum level 3 for reading, mathematics, and locating information in order to be approved for tuition assistance~~ In assessing an applicant under this division, a community college shall use the national career readiness certificate, or an assessment eligible under the Adult Education and Family Literacy Act, 20 U.S.C. Ch. 73, and approved by the department for use in an adult education and literacy program. An applicant shall

EDUCATION DEPARTMENT[281](cont'd)

complete any additional assessments and occupation research required by the gap tuition assistance program or an eligible certificate program, or both.

ITEM 5. Adopt the following new rule 281—25.28(260I):

281—25.28(260I) Redistribution of funds. To ensure efficient delivery of services, the department, in consultation with the community colleges, may redistribute funds available to the community colleges for purposes of this division.

ARC 4520C

LABOR SERVICES DIVISION[875]

Notice of Intended Action

Proposing rule making related to OSHA standards and revocation of construction contractor registrations and providing an opportunity for public comment

The Labor Commissioner hereby proposes to amend Chapter 1, “Description of Organization and Procedures Before the Division,” Chapter 3, “Posting, Inspections, Citations and Proposed Penalties,” Chapter 4, “Recording and Reporting Occupational Injuries and Illnesses,” Chapter 10, “General Industry Safety and Health Rules,” Chapter 26, “Construction Safety and Health Rules,” Chapter 32, “Child Labor,” and Chapter 150, “Construction Contractor Registration,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code chapter 17A and sections 88.5, 91C.6 and 92.21.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 17A, 88, 91C and 92.

Purpose and Summary

Item 1 proposes to remove obsolete and unnecessary language. Item 2 proposes to adopt new language inadvertently left out when the new Occupational Safety and Health Administration (OSHA) civil penalty rules were adopted.

Items 3, 4, and 5 propose to adopt by reference changes to the federal occupational safety and health standards. The Labor Commissioner is required to adopt these changes. On May 14, 2019, the federal Occupational Safety and Health Administration published numerous standard changes that were designed to correct confusing, outdated, duplicative, or inconsistent federal standards. The changes include clarifying when an employer must record hearing loss; removing periodic chest X-ray requirements from the standards for inorganic arsenic, coke oven emissions, and acrylonitrile; giving employers more flexibility for how to store chest X-rays; updating the construction standard for medical services due to changes in 911 technology; removing 19 requirements for employers to store employees’ social security numbers; eliminating obsolete and redundant language from numerous construction standards; changing the language in certain medical questionnaires; excluding certain residential construction projects from requirements for safe storage of building materials and equipment; and amending provisions concerning rollover protective structures for construction.

Item 6 proposes a new definition of “willfully volunteering” to clarify changes to the child labor law as set forth in 2019 Iowa Acts, Senate File 337. Items 7 and 13 update implementation sentences. Items 8 through 12 propose changes to the procedural rules for revocation of construction contractor registrations. These changes are designed for clarity and to better align the administrative rules with statutory authority.

LABOR SERVICES DIVISION[875](cont'd)

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commissioner for a waiver of the discretionary provisions, if any, pursuant to 875—Chapter 1 or 5.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Commissioner no later than 4:30 p.m. on July 23, 2019. Comments should be directed to:

Kathleen Uehling
Labor Services Division
150 Des Moines Street
Des Moines, Iowa 50319
Email: kathleen.uehling@iwd.iowa.gov

Public Hearing

If requested, a public hearing at which persons may present their views orally or in writing will be held as follows:

July 29, 2019
1:30 p.m.

150 Des Moines St.
Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Division and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule 875—1.65(17A) as follows:

875—1.65(17A) Scope and applicability. This division applies to contested case proceedings conducted by the division of labor services. Rules of the employment appeal board are applicable for some contested cases regarding boiler safety, ~~elevator safety, and~~ occupational safety and health, ~~inspections and contractor registration investigations.~~

LABOR SERVICES DIVISION[875](cont'd)

ITEM 2. Adopt the following **new** paragraph **3.11(1)“f”**:

f. Posting, reporting, or record-keeping violation. The penalty for each posting, reporting, or record-keeping violation under Iowa Code section 88.14(9) shall not exceed \$13,260.

ITEM 3. Adopt the following **new** paragraph **4.3(1)“i”**:

i. 84 Fed. Reg. 21457 (May 14, 2019)

ITEM 4. Amend rule **875—10.20(88)** by inserting the following at the end thereof:

84 Fed. Reg. 21457 (May 14, 2019)

ITEM 5. Amend rule **875—26.1(88)** by inserting the following at the end thereof:

84 Fed. Reg. 21574 (May 14, 2019)

ITEM 6. Adopt the following **new** definition of “Willfully volunteering” in rule **875—32.1(92)**:

“*Willfully volunteering*” means performing service for a charitable or public purpose without promise, expectation, or receipt of compensation. A child shall be considered a volunteer only if services are offered freely and without direct or implied pressure or coercion from an employer. A child shall not be considered a volunteer if the child is otherwise employed by the same charitable or public organization to perform the same type of services as those for which the child proposes to volunteer. A child shall not be considered a volunteer while working in commercial activities for a nonprofit organization.

ITEM 7. Amend rule **875—32.1(92)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code chapter 92 as amended by ~~2015 Iowa Acts, House File 397~~ 2019 Iowa Acts, Senate File 337.

ITEM 8. Amend subrules 150.11(2) and 150.11(3) as follows:

150.11(2) Notice of revocation. The commissioner shall serve a notice of intent to revoke on the contractor by personal service or by restricted certified mail to the address listed in the application or by other service as permitted in the Iowa Rules of Civil Procedure. The notice shall set the time for a fact-finding ~~hearing conducted in accordance with Iowa Code chapter 17A~~ interview.

150.11(3) ~~Hearing~~ Fact-finding interview. The purpose of the fact-finding ~~hearing~~ interview is to ensure the contractor is not in compliance before the registration is revoked. All ~~hearings~~ fact-finding interviews shall be held in the offices of the division. A telephone interview may be conducted upon request.

ITEM 9. Rescind and reserve subrule **150.11(4)**.

ITEM 10. Amend subrule 150.11(5) as follows:

150.11(5) Decision. The commissioner shall serve the decision of the fact-finding interview on the contractor by certified mail to the address listed on the application or to another address provided by the contractor. If the certified mail is returned unclaimed or undelivered, the commissioner shall ~~send the decision to the address by first class mail~~ serve the decision by other service as permitted in the Iowa Rules of Civil Procedure.

ITEM 11. Rescind and reserve subrule **150.11(7)**.

ITEM 12. Amend subrules 150.11(8) and 150.11(9) as follows:

150.11(8) ~~Appeal~~ Notice of contest. The contractor shall have 15 working days from receipt of the decision issued pursuant to subrule 150.11(5) to file a notice of contest ~~of decision~~. The notice of contest shall be filed with the commissioner, who shall forward it to the employment appeal board.

150.11(9) ~~Appeal~~ Notice of contest procedures. The rules of procedure of the employment appeal board shall apply to ~~appealed decisions~~ notices of contest.

ITEM 13. Amend **875—Chapter 150**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 91C ~~as amended by 2010 Iowa Acts, House File 2522.~~

ARC 4522C**PUBLIC SAFETY DEPARTMENT[661]****Notice of Intended Action****Proposing rule making related to fire service training bureau and fire fighter training, certification, and funds and providing an opportunity for public comment**

The Public Safety Department hereby proposes to amend Chapter 53, “Fire Service Training Bureau,” Chapter 251, “Fire Fighter Training and Certification,” and Chapter 259, “Fire Fighter Training and Equipment Funds,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code chapter 100B and section 80.9.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 100B and section 80.9.

Purpose and Summary

The purpose of amending Chapter 53 is to remove contact references for the fire service training bureau that are subject to change. Chapter 251 is amended to update the certification program and to modernize references to the qualification standards of the program. This includes the title of the certification and accreditation program (previously known as the Iowa fire service certification system) as well as certification standard cross references. Additionally, Chapter 251 is amended to remove references to specific NFPA editions and instead refer broadly to the adopted edition. This change has been made to allow the fire service training bureau to adopt an updated edition without changing administrative rules. Chapter 259 is amended to update contact information and clarify the process for application and how the application process is organized within the Department.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Pursuant to the provisions of rule 661—10.222(17A), the Department does not have the authority to waive requirements established by statute. Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the provisions of rule 661—10.222(17A).

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on July 23, 2019. Comments should be directed to:

PUBLIC SAFETY DEPARTMENT[661](cont'd)

Chandler Collins
 Department of Public Safety
 Oran Pape State Office Building
 215 East 7th Street
 Des Moines, Iowa 50319
 Phone: 515.725.6185
 Email: collins@dps.state.ia.us

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend **661—Chapter 53** as follows:

CHAPTER 53
 FIRE SERVICE TRAINING BUREAU

661—53.1(78GA, HF2492 80) Fire service training bureau. There is established within the state fire marshal division a fire service training bureau, with responsibility for instructing the general public and fire protection personnel throughout the state, providing service to public and private fire departments in the state, conducting research in the methods of maintaining and improving fire and other emergency services education consistent with the needs of Iowa communities, and performing any other functions assigned to the bureau by the state fire marshal in consultation with the state fire service and emergency response council.

~~The fire service training bureau is located at 3100 Fire Service Road, Ames, Iowa 50010-3100. The bureau can be contacted by telephone at (888)469-2374 (toll free) or at (515)294-6817, by fax at (800)722-7350 (toll free) or (515)294-2156, or by electronic mail at fstbinfo@dps.state.ia.us.~~

661—53.2(78GA, HF2492 80) Programs, services, and fees.

53.2(1) to 53.2(4) No change.

These rules are intended to implement 2000 Iowa Acts, ~~House File 2492~~ Iowa Code section 80.9.

ITEM 2. Amend rule 661—251.1(100B) as follows:

661—251.1(100B) Definitions. The following definitions apply to rules 661—251.1(100B) to 661—251.204(100B):

“*Emergency incident*” means any incident involving a fire or other hazardous situation to which personnel of a fire department respond.

“*NFPA*” means the National Fire Protection Association, ~~Batterymarch Park, Quincy, MA 02269.~~ References to the form “NFPA xx,” where “xx” is a number, refer to the NFPA standard or pamphlet of the corresponding number.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

“*Structural fire fighting*” means fire fighting in a hazardous environment which requires the use of self-contained breathing apparatus.

ITEM 3. Amend rule 661—251.101(100B) as follows:

661—251.101(100B) Minimum training standard. Any member of a fire department shall have completed the training requirements identified in the job performance requirements for the fire fighter I classification in NFPA 1001, Standard for Fire Fighter Professional Qualifications, ~~2008 edition, chapter 5~~ based on the current edition adopted by the fire service training bureau, prior to the member’s engaging in structural fire fighting. Each fire department shall identify its members who are or will be engaged in structural fire fighting and shall ensure that any member engaged in structural fire fighting has completed the training requirements specified in this rule prior to the member’s engaging in structural fire fighting.

NOTE: A fire fighter is not required to be certified to meet this requirement. Training to meet this requirement may be provided by the fire service training bureau, a community college, a regional fire training facility, or a local fire department, or any combination thereof.

EXCEPTION 1: A fire fighter who received training which complied with the job performance requirements for the fire fighter I classification contained in an earlier edition of NFPA 1001 shall be deemed to have met this requirement, provided that records documenting the training are maintained in accordance with rule 661—251.104(100B).

EXCEPTION 2: The chief or the training officer of any fire department may apply to the state fire marshal by June 1 of any year for an extension of the deadline to meet the training requirement for members of the department engaged in structural fire fighting. Any such extension shall be for one year and may be renewed annually upon application. An extension shall be granted only if the department has requested training required under this rule, with training costs to be offset through funding from the fire fighting training and equipment fund, pursuant to 661—Chapter 259, and funds to offset the cost of the training have not been available or have been inadequate to fully offset the cost of the training. The extension may be for all or some of the fire fighters in the department. The application shall be in a form specified by the state fire marshal and shall list by name each fire fighter for whom an extension is requested. The extension, if granted, shall list by name the fire fighters to whom the extension applies and shall apply only to those listed.

ITEM 4. Amend rules 661—251.201(100B) and 661—251.202(100B) as follows:

661—251.201(100B) Fire fighter certification and accreditation program. There is established within the fire service training bureau of the state fire marshal division a fire fighter certification program for the state of Iowa, which shall be known as the Iowa fire service certification system certification and accreditation program. The ~~Iowa fire service certification system certification and accreditation program~~ is accredited by the National Board on Fire Service Professional Qualifications (PROBOARD) and the International Fire Service Accreditation Congress (IFSAC) to certify fire service personnel to accepted national standards. All certifications issued by the ~~Iowa fire service certification system certification and accreditation program~~ shall be based upon nationally accepted standards.

NOTE 1: Participation in the ~~Iowa fire service certification system certification and accreditation program~~ is voluntary ~~in that~~, and state law does not require certification to work or volunteer as a fire fighter in Iowa. However, some fire departments within the state require certification for continued employment or promotion. Inquiries regarding such requirements should be directed to the hiring or employing department.

NOTE 2: Inquiries and requests regarding the ~~Iowa fire service certification system certification and accreditation program~~ should be directed to ~~Iowa Fire Service Certification System, Fire Service Training Bureau, 3100 Fire Service Road, Ames, Iowa 50010-3100. The bureau can be contacted by telephone at (888)469-2374 (toll-free) or at (515)294-6817, by fax at (800)722-7350 (toll-free) or (515)294-2156, or by electronic mail at fstbinfo@dps.state.ia.us. Further information can be found on the Web site for the fire service training bureau at www.state.ia.us/government/dps/fm/fstb the fire service training bureau.~~

PUBLIC SAFETY DEPARTMENT[661](cont'd)

251.201(1) Eligibility. Any person seeking certification through the ~~Iowa fire service certification system~~ certification and accreditation program shall be a current member of a fire, emergency, or rescue organization within the state of Iowa and shall be at least 18 years of age.

EXCEPTION: Persons not meeting the requirement of membership in a fire, emergency, or rescue organization may be granted exceptions to this requirement on an individual basis. Individuals seeking such exceptions shall address these requests to the fire service training bureau.

251.201(2) Application. Application forms for each level of fire fighter certification may be obtained from the fire service training bureau, ~~or on the bureau's Web site at www.state-ia.us/government/dps/fm/fstb~~. In order to enter the certification and accreditation program, an applicant shall submit a completed application, accompanied by the required fee, to the fire service training bureau. The fee must accompany the application form, although a purchase order from a public agency or private organization may be accepted in lieu of prior payment. The application and fee shall be submitted no less than two weeks prior to the date of any examination in which the applicant wishes to participate.

661—251.202(100B) Certification standards. Standards for ~~Iowa fire fighter certification the certification and accreditation program~~ are based upon nationally recognized standards established by the National Fire Protection Association (NFPA), ~~1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269-9101~~. Certification at each level in the Iowa fire service certification system results in national certification ~~as well~~.

251.202(1) Fire fighter.

a. Fire fighter I. Certification as a fire fighter I is based upon the requirements for fire fighter I certification established in NFPA 1001, "Standard for Fire Fighter Professional Qualifications," ~~2008 edition, chapter 5~~ current edition adopted by the fire service training bureau.

b. Fire fighter II. Certification as a fire fighter II is based upon the requirements for fire fighter II certification established in NFPA 1001, "Standard for Fire Fighter Professional Qualifications," ~~2008 edition, chapter 6~~ current edition adopted by the fire service training bureau.

251.202(2) Driver/operator.

a. Driver/operator (pumper). Certification as a driver/operator (pumper) is based upon the requirements for fire department vehicle driver/operator (pumper) certification established in NFPA 1002, "Standard ~~on~~ for Fire Apparatus Driver/Operator Professional Qualifications," ~~2009 edition, chapter 5~~ current edition adopted by the fire service training bureau.

b. Driver/operator (aerial). Certification as a driver/operator (aerial) is based upon the requirements for fire department vehicle driver/operator (aerial) certification established in NFPA 1002, "Standard ~~on~~ for Fire Apparatus Driver/Operator Professional Qualifications," ~~2009 edition, chapter 6~~ current edition adopted by the fire service training bureau.

251.202(3) Fire officer.

a. Fire officer I. Certification as a fire officer I is based upon the requirements for fire officer I certification established in NFPA 1021, "Standard for Fire Officer Professional Qualifications," ~~2009 edition, chapter 4~~ current edition adopted by the fire service training bureau.

b. Fire officer II. Certification as a fire officer II is based upon the requirements for fire officer II certification established in NFPA 1021, "Standard for Fire Officer Professional Qualifications," ~~2009 edition, chapter 5~~ current edition adopted by the fire service training bureau.

251.202(4) Fire inspector. Certification as a fire inspector I is based upon the requirements for certification as a fire inspector I established in NFPA 1031, "Standard for Professional Qualifications for Fire Inspector and Plans Examiner," ~~2009 edition, chapter 4~~ current edition adopted by the fire service training bureau.

251.202(5) Fire investigator. Certification as a fire investigator is based upon the requirements for certification as a fire investigator established in NFPA 1033, "Standard for Professional Qualifications for Fire Investigator," ~~2009 edition, chapter 4~~ current edition adopted by the fire service training bureau.

251.202(6) Fire service and emergency services instructor.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

a. Fire service and emergency services instructor I. Certification as a fire service and emergency services instructor I is based upon the requirements for certification as a fire service and emergency services instructor I established in NFPA 1041, “Standard for Fire Service and Emergency Services Instructor Professional Qualifications,” 2007 edition, chapter 4 current edition adopted by the fire service training bureau.

b. Fire service and emergency services instructor II. Certification as a fire service and emergency services instructor II is based upon the requirements for certification as a fire service and emergency services instructor II established in NFPA 1041, “Standard for Fire Service and Emergency Services Instructor Professional Qualifications,” 2007 edition, chapter 5 current edition adopted by the fire service training bureau.

251.202(7) Responder to hazardous materials incidents.

a. Responder to hazardous materials incidents (awareness) (operations). ~~Certification~~ Prior to October 1, 2019, certification as a responder to hazardous materials incidents (awareness) is based upon the requirements for certification as a responder to hazardous materials incidents (awareness) established in NFPA 472, “Standard for Professional Competence of Responders to Hazardous Materials Incidents/Weapons of Mass Destruction Incidents,” 2008 edition, chapter 4 current edition adopted by the fire service training bureau. Beginning on October 1, 2019, certification as a responder to hazardous materials incidents (operations) is based upon the requirements for certification as a responder to hazardous materials incidents (operations) established in NFPA 1072, “Standard for Hazardous Materials/Weapons of Mass Destruction Emergency Response Personnel Professional Qualifications,” current edition adopted by the fire service training bureau.

b. Responder to hazardous materials incidents (operations). ~~Certification~~ Prior to October 1, 2019, certification as a responder to hazardous materials incidents (operations) is based upon the requirements for certification as a responder to hazardous materials incidents (operations) established in NFPA 472, “Standard for Professional Competence of Responders to Hazardous Materials Incidents/Weapons of Mass Destruction Incidents,” 2008 edition, chapter 5, sections 6.2 through 6.2.5.1 and sections 6.4 through 6.4.6.1 current edition adopted by the fire service training bureau. Beginning on October 1, 2019, certification as a responder to hazardous materials incidents (operations) is based upon the requirements for certification as a responder to hazardous materials incidents (operations) established in NFPA 1072, “Standard for Hazardous Materials/Weapons of Mass Destruction Emergency Response Personnel Professional Qualifications,” current edition adopted by the fire service training bureau.

ITEM 5. Amend rule 661—251.204(100B) as follows:

661—251.204(100B) Certification, denial, and revocation of certification.

251.204(1) and **251.204(2)** No change.

251.204(3) Revocation. ~~The fire marshal~~ fire service training bureau may revoke the certification of any individual who is found to have knowingly provided false information to the fire service training bureau during the certification process or to have engaged in fraudulent activity during the certification process.

251.204(4) Appeals. Any person who is denied certification or whose certification is revoked may appeal the denial or revocation. An appeal of a denial or revocation of certification shall be made to the commissioner of public safety within 30 days of the issuance of the denial or revocation using the contested case procedures specified in ~~661—Chapter 10~~ rules 661—10.301(17A) through 661—10.332(17A).

ITEM 6. Amend rules 661—259.101(17A,77GA,ch1222) to 661—259.103(17A,77GA,ch1222) as follows:

661—259.101(17A,77GA,ch1222) Establishment of fund. There is established in the state fire marshal division the volunteer fire fighter training and equipment fund. The fund, to the extent of appropriations made available in each state fiscal year, shall provide support for the training and equipment needs

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of volunteer fire fighters. Funding is available to individual fire departments for equipment and to organizations or individuals delivering training to support courses available at no cost to volunteer fire fighters receiving the training or to their respective departments.

259.101(1) Advisory committee. The state fire marshal may establish a volunteer fire fighter training and equipment fund advisory committee of persons knowledgeable about the training and equipment needs of volunteer fire fighters and volunteer fire departments to advise on allocation of moneys from the volunteer fire fighter training and equipment fund, including the selection of recipients in competitive situations.

259.101(2) Reserved.

661—259.102(17A,77GA,ch1222) Allocations.

259.102(1) *Administrative allocation.* Each year, the state fire marshal shall allocate a portion of the funds appropriated to the volunteer fire fighter training and equipment fund for administration of the fund, including personnel expenses. A portion of the administrative allocation shall be made available to the fire service training bureau to defray the cost of maintaining records of course attendance and completion by volunteer fire fighters and for related expenses.

259.102(2) *Allocation to fire service training bureau.* The state fire marshal may allocate a portion of the moneys appropriated to the volunteer fire fighter training and equipment fund in any year to the fire service training bureau for the purpose of delivering training courses offered by the fire service training bureau to volunteer fire fighters at no cost to the volunteer fire fighters or their respective fire departments.

259.102(3) *Allocation for equipment purchases.* The state fire marshal may allocate a portion of the moneys appropriated to the volunteer fire fighter training and equipment fund in any year to equipment purchases for volunteer fire departments. Awards of funding to volunteer fire departments for equipment purchases shall be on a competitive basis within guidelines published in an announcement of the availability of these funds.

259.102(4) *Allocation to community college consortium.* The state fire marshal may allocate a portion of the moneys appropriated to the volunteer fire fighter training and equipment fund in any year to a consortium of community colleges to deliver training to volunteer fire fighters at no cost to the fire fighters receiving this training or to their respective fire departments. These funds shall be administered in accordance with an agreement entered into between the department of public safety and community colleges pursuant to Iowa Code chapter 28E.

661—259.103(17A,77GA,ch1222) Awards to private providers of training. Funds appropriated each year to the volunteer fire fighter training and equipment fund which remain after the allocations set forth in rule 661—259.102(17A,77GA,ch1222) have been implemented shall be awarded on a competitive basis to private providers of training to provide training to volunteer fire fighters at no cost to the fire fighters receiving the training or to their respective fire departments.

259.103(1) *Funding requests.* Requests for funding of training courses instructed by private persons shall be submitted to the ~~Volunteer Fire Fighter Training and Equipment Fund, Fire Marshal Division, Department of Public Safety, 217 East 7th, Des Moines, Iowa 50319, in a format specified by the fire marshal~~ fire service training bureau. Requests for funding in any state fiscal year must be received on or before July 15 following the beginning of the fiscal year on July 1.

EXCEPTION: If moneys which have been previously unexpended become available for additional training courses during the course of a fiscal year, notice shall be given to certified fire ~~service~~ and emergency services instructors of the availability of these moneys. In this event, the deadline for receiving applications shall be as stated in the notice of availability.

259.103(2) *Instructor qualifications.* Any person instructing a training course paid for by the volunteer fire fighter training and equipment fund shall be certified as a fire ~~service~~ and emergency services instructor by the fire service training bureau or another organization recognized by the National Board on Fire Service Professional Qualifications, ~~P.O. Box 690632, Quincy, Massachusetts 02269, System~~ or the International Fire Service Accreditation Congress, ~~1700 W. Tyler, Oklahoma State University, Stillwater, Oklahoma 74078-8075.~~

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EXCEPTION: A person who has applied to the fire service training bureau for certification as a fire service and emergency services instructor I and who is actively pursuing such certification may instruct a training course paid for by the volunteer fire fighter training and equipment fund, provided that the instruction is delivered under the direct supervision of a person who is currently certified as a fire service and emergency services instructor I by the fire service training bureau or by another organization recognized by the National Board on Fire Service Professional Qualifications System or the International Fire Service Accreditation Congress.

259.103(3) Course approval. Each course paid for by the volunteer fire fighter training and equipment fund must have previously been approved by the fire service training bureau. Any person who is certified as a fire service and emergency services instructor I or who is actively pursuing certification as a fire service and emergency services instructor I should contact the fire service training bureau for information about the course approval process at the following address: Fire Service Training Bureau, 3100 Fire Service Rd., Ames, Iowa 50011-3100.

259.103(4) and 259.103(5) No change.

ITEM 7. Amend **661—Chapter 259**, rule implementation sentence, as follows:

~~These rules~~ Rules 661—259.101(17A,77GA,ch1222) to 661—259.103(17A,77GA,ch1222) are intended to implement 1998 Iowa Acts, chapter 1222, section 19(8).

ITEM 8. Amend rules 661—259.104(100B) and 661—259.105(80GA,ch1175) as follows:

661—259.104(100B) Paul Ryan memorial fire fighter safety training fund. Funds collected from the sale of special fire fighter license plates and deposited to the Paul Ryan memorial fire fighter safety training fund shall be utilized by the fire service training bureau to defray the cost of training provided to any fire fighter currently employed by or serving as a volunteer with any fire department in Iowa. Application of these funds shall be limited to defraying the cost of training courses approved for reimbursement from the volunteer fire fighter training and equipment fund established in rule 661—259.101(17A,77GA,ch1222).

This rule is intended to implement Iowa Code ~~Supplement~~ section 100B.12.

661—259.105(80GA,ch1175 100B) Volunteer fire fighter preparedness fund. Funds appropriated to the volunteer fire fighter preparedness fund pursuant to ~~2004 Iowa Acts, Senate File 2298, section 434, Iowa Code section 100B.13~~ shall be utilized by the fire service training bureau to defray the cost of training provided to fire fighters currently serving as volunteers with any fire department in Iowa. Application of these funds shall be limited to defraying the cost of training courses approved for reimbursement from the volunteer fire fighter training and equipment fund established in rule 661—259.101(17A,77GA, ch1222).

This rule is intended to implement ~~2004 Iowa Acts, chapter 1175, section 434~~ Iowa Code section 100B.13.

ITEM 9. Amend rule 661—259.201(80GA,ch177) as follows:

661—259.201(80GA,ch177) Fire fighting equipment revolving loan fund. There is established in the fire service training bureau in the state fire marshal division the fire fighting equipment revolving loan fund.

ITEM 10. Amend rules 661—259.203(80GA,ch177) to 661—259.207(80GA,ch177) as follows:

661—259.203(80GA,ch177) Definitions. For purposes of rules 661—259.201(80GA,ch177) to 661—259.207(80GA, ch177), the following definitions apply:

“*Default*” or “*in default*” means that more than one payment on a loan is currently due.

“*Local fire department*” means a paid, volunteer, or combination fire protection service provided by a benefited fire district under Iowa Code chapter 357B or by a county, municipality or township, or a private corporate organization that has a valid contract to provide fire protection service for a benefited

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fire district, county, municipality, township or governmental agency. “Local fire department” does not include a military or private industrial fire department or service.

“*NFPA*” means the National Fire Protection Association, ~~Batterymarch Park, Quincy, MA 02269.~~ References to the form “*NFPA xx*,” where “*xx*” is a number, refer to the *NFPA* standard or pamphlet of the corresponding number.

“*PASS*” means personal alert safety system.

“*SCBA*” means self-contained breathing apparatus.

661—259.204(80GA,ch177) Application process.

259.204(1) Notice of availability of funds. Whenever funds are available for loans through the fire fighting equipment revolving loan fund, the ~~department~~ fire service training bureau shall publish notice of the availability of those funds in the Iowa Administrative Bulletin and shall notify fire service organizations, including, but not limited to, the Iowa Firemen’s Association, the Iowa Fire Chiefs Association, and the Iowa Association of Professional Fire Chiefs, of the availability of those funds, the procedure for applying for loans through the program, the deadline for applying for funds, and the provisions of rules 661—259.201(80GA,ch177) to 661—259.207(80GA, ch177). All local fire departments in Iowa known to the fire service training bureau shall receive notice by mail or, when available, electronic mail. In addition, notice of availability of funds and the application procedure shall be published on the department’s ~~Web site~~ website.

~~EXCEPTION: No separate notice of availability of funds shall be published in the Iowa Administrative Bulletin for the initial round of loan application and review. The schedule for the initial loan application and review process is as follows:~~

- ~~1. The application process officially opens on January 15, 2004;~~
- ~~2. The deadline for submitting applications to be considered in the initial round is March 1, 2004; and~~
- ~~3. The target date for the fire marshal to announce decisions regarding the first round of applications is April 1, 2004.~~

259.204(2) No change.

259.204(3) Loan application review.

~~a. The state fire marshal, or another staff member of the fire marshal division designated by the fire marshal, and the chief of the fire service training bureau, or another staff member of the fire service training bureau designated by the bureau chief, shall review each application for completeness and compliance with rules 661—259.201(80GA,ch177) to 661—259.207(80GA,ch177). The fire marshal may assign additional staff of the fire marshal division to review applications and may request assistance from other employees of the department of public safety in the review process.~~

~~b. The state fire service and emergency response council, or a subcommittee of the council established for this purpose, shall serve as an advisory committee to the state fire marshal in the loan application review process, and shall recommend to the state fire marshal in the loan application review process, and shall recommend to the state fire marshal funding, partial funding, or denial of each application. Recommendations regarding loan applications shall be based upon availability of funds in relation to the total funds requested by eligible applicants, documentation of need for the proposed purchase or repair, and documentation of likely ability of the local fire department applying for a loan to repay the loan.~~

~~c. Decisions to award or not to award loans shall be made by the state fire marshal.~~

259.204(4) Appeals. If a local fire department’s application is denied or partially funded by the state fire marshal, the department may appeal the decision of the state fire marshal to the commissioner of public safety using procedures for appeals set out in 661—Chapter 10.

661—259.205(80GA,ch177) Allowable acquisitions. Loans from the fire fighting equipment revolving loan fund may be used to acquire the following equipment or repair services with the limitations indicated:

1. Fire fighting apparatus, including pumpers, tankers, ladder trucks, hazardous materials emergency response vehicles, or rescue vehicles. Any apparatus obtained with loan funds must comply

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with applicable NFPA standards, as identified by the state fire marshal. Loans in this category may be awarded in amounts between \$25,000 and \$150,000.

2. Personal protective equipment and communications equipment, including personal protective clothing (structural and wild land) that includes helmets, coats, boots, pants, eye protection, gloves, and protective hoods; SCBA with integrated PASS devices; and radio communications devices. Radio communications devices obtained with loan funds must be interoperable with equipment utilized by agencies with which the agency obtaining the equipment has mutual aid agreements, if such interoperable equipment is available. Equipment obtained must comply with applicable NFPA standards, as identified by the state fire marshal. Loans for purchase in this category are limited to amounts between \$10,000 and \$50,000.

3. Repairs made to apparatuses identified in paragraph "1." Loans in this category are limited to amounts between \$10,000 and \$50,000.

4. Purchase of accessory equipment, including fire suppression equipment such as hoses, ladders, small fireground tools, ventilation equipment, or vehicle extrication and rescue equipment. Equipment obtained with loan funds must comply with applicable NFPA standards, as identified by the state fire marshal. Loans in this category are limited to amounts between \$10,000 and \$50,000.

5. The state fire marshal, acting on the advice of the fire service and emergency response council, may establish priorities for funding through the revolving loan fund. If such priorities are established, they will be included in the notice of availability of funds and shall be utilized only if the total amount of funding requested exceeds the total of funds available to loan.

661—259.206(80GA,ch177) Eligibility requirements and restrictions.

259.206(1) and **259.206(2)** No change.

259.206(3) All successful loan applicants shall comply fully with the fire incident reporting requirements of the state fire marshal division.

259.206(4) No loan shall be made to a local fire department serving a population in excess of 30,000 people which will result in excess of 50 percent of the total funds loaned at any given time being loaned to local fire departments serving populations in excess of 30,000 people, unless the state fire marshal finds that there are no eligible applications pending from local fire departments serving populations of 30,000 people or less.

259.206(5) Following approval, loan funds will be provided only after the local fire department receiving the loan submits documentation showing that the department has either acquired, contracted for, or issued a purchase order for the equipment. Disbursement of the loan shall be in the form of a warrant payable either to the local fire department and the vendor or vendors supplying the equipment or repair services, or solely to the vendor or vendors, or, with the approval of the state fire marshal, solely to the local fire department receiving the loan.

259.206(6) to **259.206(8)** No change.

661—259.207(80GA,ch177) Loan origination fee and repayment schedule.

259.207(1) No change.

259.207(2) A repayment schedule for each loan shall be established at the time the loan is awarded, with a minimum of two payments per year for the duration of the loan. Generally, loans of \$50,000 or less shall be repaid within a five-year period, and loans of more than \$50,000 shall be repaid within a ten-year period, although the state fire marshal may allow variations for good cause. There will be no penalty for early payment. Each payment shall be by warrant, check, or money order made payable to Fire Service Training Bureau, Iowa Department of Public Safety, and shall be clearly marked "Repayment of Loan from Fire Fighting Equipment Revolving Loan Fund."

259.207(3) During any period when a loan is in default, there shall be a penalty of 1.5 percent of the remaining unpaid principal of the loan per month added to the amount of the loan.

ITEM 11. Amend rules 661—259.301(100B) and 661—259.302(100B) as follows:

661—259.301(100B) Regional training center program.

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259.301(1) There is established in the state fire marshal division the regional emergency response training center program. The program shall operate under the authority of the state fire marshal and shall operate within the fire service training bureau. Day-to-day administration of the program shall be under the supervision of the chief of the fire service training bureau.

259.301(2) The purposes of the regional emergency response training center program are:

a. To administer funds appropriated for the program as directed by the general assembly, under the direction of the state fire marshal, and in cooperation with the state fire service and emergency response council.

b. To develop training curricula in cooperation with regional emergency response training facilities.

c. To encourage cooperation among regional emergency response training facilities, between regional emergency response training facilities and the fire service training bureau, and among the fire service training bureau, regional emergency response training facilities, and other providers of training to emergency responders.

661—259.302(100B) Definitions. The following definitions apply to rules 661—259.301(100B) through 661—259.305(100B):

“*Allocated funds*” means funds allocated by the general assembly for the construction of a particular regional emergency response training center.

“*Bureau*” means the fire service training bureau in the state fire marshal division of the department of public safety.

“*Competitive funds*” means funds which are appropriated or otherwise available to the regional emergency response training center program for construction of regional emergency response training facilities, but which are not designated by the general assembly for the use of a particular regional emergency response training center.

“*Department*” means the department of public safety.

“*Division*” means the state fire marshal division of the department of public safety.

“*Lead agency*” means one of the community colleges identified as lead agencies in Iowa Code section ~~100B.22, subsection 1~~ 100B.22(1).

“*Partner agency*” means one of the agencies identified as partners in Iowa Code section ~~100B.22, subsection 1~~ 100B.22(1).

“*Regional emergency response training center*” means one of the centers identified in Iowa Code section ~~100B.22, subsection 1~~ 100B.22(1).

“*Training facility*” includes, but is not limited to, the following:

1. Burn building.
2. Smokehouse.
3. Drill tower.
4. Skills building.
5. Training pads with specialized training props.
6. Maintenance facilities.

ITEM 12. Amend rules 661—259.304(100B) and 661—259.305(100B) as follows:

661—259.304(100B) Application process.

259.304(1) Applications for funds.

a. Application for either allocated funds or competitive funds shall be submitted to the fire service training bureau on a form specified by the state fire marshal.

b. Each lead agency may submit a completed application for allocated funds.

c. Any lead agency may submit a completed application for competitive funds. An application for competitive funds shall be submitted separately from an application from the same lead agency for allocated funds.

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d. Each completed application shall be signed by an official of the lead agency authorized to enter into contracts on behalf of the lead agency and shall be signed by an official of each partner of the lead agency, each of whom shall be a person authorized to enter into contracts on behalf of the partner agency.

e. Each application shall be accompanied by at least two letters of support from public or private agencies employing emergency responders and located in the area to be served by the regional emergency response training center.

f. Each application shall include signed assurances stating that the lead agency, the partner agency or agencies, if any, and the regional emergency response training center shall comply with all federal and state laws applicable to the administration of any funds awarded, the planning, design, and construction of the regional emergency response training center, and the operation of the center after construction is completed.

g. All information required on the application shall be completed, and all attachments required by the state fire marshal shall be submitted with the application. An application shall not be considered complete unless the application is in compliance with this paragraph.

h. The deadline for submission of each completed application for funding during a state fiscal year is September 15 of that fiscal year.

EXCEPTION: If funds remain available for distribution through the regional emergency response training center program after all applications received by the September 15 deadline have been processed, the state fire marshal may conduct an additional application process during the same fiscal year. If such an additional application process is conducted, an announcement of the availability of funds, specifying the deadline for receipt of applications and other instructions for applying for funds, shall be provided to all regional emergency response training centers and shall be published in the Iowa Administrative Bulletin.

259.304(2) No change.

661—259.305(100B) Processing of submitted applications.

259.305(1) All completed applications received shall be reviewed by the state fire service and emergency response council or by a subcommittee of the council appointed by the state fire marshal in consultation with the chair of the council. The council or subcommittee shall recommend funding, partial funding, or denial of each application to the state fire marshal.

259.305(2) After receiving the recommendations of the council or subcommittee, the state fire marshal shall make a determination as to whether funding will be awarded in whole or in part for each application or whether the application will be denied. Each applicant shall be notified promptly of the disposition of the applicant's application. If the application is denied or partial funding is awarded, the applicant shall be informed as to the reasons for the denial or partial funding. Applications for funding shall be evaluated based on the criteria for funding included in Iowa Code section ~~400B.22, subsection 3,~~ 100B.22(3) and any applicable criteria for establishing priority for the funding established by the general assembly. Competitive funding may not be used for facilities the primary purpose of which is to provide advanced training.

259.305(3) Appeals.

a. An applicant who is denied funding or whose application is funded in part may appeal this decision to the state fire marshal. Such an appeal shall be treated as a contested case subject to the provisions of rules ~~661—10.301(17A) through 661—10.322(17A)~~ 661—10.332(17A), except that the request for an appeal shall be filed with the State Fire Marshal Division, Department of Public Safety Building, 215 East 7th Street, Des Moines, Iowa 50319, and wherever "commissioner" or "commissioner of public safety" appears, "state fire marshal" shall be substituted.

b. Prior to appealing a decision, the applicant may submit a revised application to the state fire marshal. If an applicant intends to submit a revised application, the applicant shall so notify the state fire marshal within the time frame established for filing an appeal. Upon receipt of a revised application, the state fire marshal shall cause the revised application to be processed in accordance with subrules 259.305(1) and 259.305(2). If a revised application is denied or funded in part, the applicant may appeal in accordance with paragraph "a" of this subrule.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

ITEM 13. Amend **661—Chapter 259**, Division III, implementation sentence, as follows:
 These rules are intended to implement Iowa Code chapter 100B as amended by 2007 Iowa Acts, House File 911.

ARC 4521C

PUBLIC SAFETY DEPARTMENT[661]

Notice of Intended Action

Proposing rule making related to safety standards for liquefied petroleum gas and providing an opportunity for public comment

The State Fire Marshal hereby proposes to amend Chapter 226, “Liquefied Petroleum Gas,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 101.1(1), 101.2, 101.4, and 101.5.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 101.

Purpose and Summary

The purpose of the proposed amendments to Chapter 226 is to update code requirements and incorporate new industry standards within the industry.

The proposed amendments update the current standards in order to adopt the most recent editions of the National Fuel Gas Code and the Liquefied Petroleum Gas Code that have been developed by the National Fire Protection Association (NFPA). The NFPA standards are designed to mitigate risks and to ensure safe installation of liquefied petroleum gas storage, handling, transportation, and use and to prevent failures, leaks, and tampering that could lead to fires and explosions. The most recent standards reflect industry standards and promote safety. Liquefied petroleum gas is a clean-burning fossil fuel that is primarily produced domestically. It can be adapted for many uses, and its use has increased in popularity in residential, agricultural, and commercial markets in the United States and elsewhere. Domestic and global demand is expected to increase markedly in the next five years. Safety standards are important for any fuels that can create public safety hazards, and adoption of the current national standards reflects the current state of knowledge and experience in the industry.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 661—10.222(17A).

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Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on July 24, 2019. Comments should be directed to:

Chandler Collins
Department of Public Safety
Oran Pape State Office Building
215 East 7th Street
Des Moines, Iowa 50319
Email: collins@dps.state.ia.us
Phone: 515.725.6185

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule 661—226.1(101) as follows:

661—226.1(101) General requirements. The provisions of the National Fire Protection Association, NFPA 54, ANSI Z223.1-~~2015~~ 2018 National Fuel Gas Code, ~~2015~~ 2018 edition, and NFPA 58, Liquefied Petroleum Gas Code, ~~2014~~ 2017 edition, published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02169-7471, and all references contained therein, are hereby adopted by reference as the general requirements for transportation, storage, handling, and use of liquefied petroleum gas, with the following amendments:

Amend NFPA 54, ANSI Z223.1-~~2015~~ 2018 National Fuel Gas Code, ~~2015~~ 2018 edition, as follows:

Delete section 7.3.5.2 and insert in lieu thereof the following new section:

7.3.5.2 Gas piping underground, outside a building, shall not be in physical contact with any concrete. Where it is necessary to install piping that will extend through or under an exterior concrete slab for connection to a regulator or other part of the system, before entering a building, the gas piping shall be sleeved. The sleeve shall extend through the concrete and be sealed only at the end extending above grade to prevent the entrance of insects, debris, or moisture. All piping, fittings, and risers shall be protected against corrosion in accordance with NFPA 54, National Fuel Gas Code, ~~2015~~ 2018 edition, section ~~5.6.6~~ 7.2.2.

Delete section 8.2.1 and insert in lieu thereof the following new section:

8.2.1 Leak checks using fuel gas (propane vapor) shall be permitted in piping systems that have been pressure-tested in accordance with 661—subrule 226.5(1).

Amend NFPA 58, Liquefied Petroleum Gas Code, ~~2014~~ 2017 edition, as follows:

Properties of LP-gases shall be determined in accordance with Annex B of NFPA 58.

Delete section 4.3.1 and insert in lieu thereof the following new section:

PUBLIC SAFETY DEPARTMENT[661](cont'd)

4.3.1 Stationary installations. Where a stationary installation utilizes a storage container of more than 2,000 gallons (7,570 L) of individual water capacity, or the aggregate water capacity of storage containers is more than 4,000 gallons (15,140 L) in water capacity, the installer shall submit plans (Liquid Propane Plan – DIVISION OF STATE FIRE MARSHAL) for such installation to the state fire marshal for review and approval. Installation shall not commence until written approval from the state fire marshal has been received. The local fire department [city or county where the tank(s) is located] shall be advised of each installation.

Delete section 5.2.3 and insert in lieu thereof the following new section:

5.2.3 Cylinders filled on site at the point of use.

5.2.3.1 ~~DOT cylinders~~ Cylinders in stationary service that are filled on site at the point of use and, therefore, are not under the jurisdiction of the DOT shall comply with one of the following criteria:

- (1) The cylinders shall be requalified in accordance with DOT requirements.
- (2) The cylinders shall be visually inspected within 12 years of the date of manufacture and within every 5 years thereafter, in accordance with 5.2.3.2 through 5.2.3.4.

5.2.3.2 Any cylinder that fails to meet one or more of the criteria in 5.2.3.4 shall not be refilled or continued in service until the condition is corrected.

5.2.3.3 Personnel shall be trained and qualified to perform inspections. Training shall be documented in accordance with rule 661—226.4(101).

5.2.3.4 Visual inspection shall be performed in accordance with the following:

(1) The cylinder is checked for exposure to fire, dents, cuts, digs, gouges, and corrosion according to CGA C-6-2007 2013, Standard for Visual Inspection of Steel Compressed Gas Cylinders, ~~tenth~~ eleventh edition, except that 5.2.1.1(1) of that standard (which requires tare weight verification) shall not be part of the required inspection criteria.

(2) The cylinder protective collar (where utilized) and the foot ring are intact and are firmly attached.

(3) The cylinder is painted or coated to minimize corrosion.

(4) The cylinder pressure relief valve indicates no visible damage, corrosion of operating components, or obstructions.

(5) There is no leakage from the cylinder or its appurtenances that is detectable without the use of instruments.

(6) The cylinder is installed on a firm foundation and is not in contact with the soil.

(7) A cylinder that passes the visual examination is marked with the month and year of the examination followed by the letter E (e.g., “10-01E,” indicating requalification in October 2001 by the external inspection method) and the requalifier identification number (RIN) in accordance with the requalifying agency’s permit issued by the DOT.

(8) The results of the visual inspection are documented, and a record of the inspection is retained for a 5-year period or until the cylinder is again requalified, whichever occurs first.

Delete section ~~6.6.7.1~~ 6.8.7.1 and insert in lieu thereof the following new section:

~~6.6.7.1~~ **6.8.7.1** Installation of permanent, stationary containers on roofs of buildings shall be prohibited.

Delete section ~~6.6.7.2~~ 6.8.7.2.

Delete section ~~6.7.2.7~~ 6.9.2.7 and insert in lieu thereof the following new section:

~~6.7.2.7~~ **6.9.2.7** The pressure relief valve discharge on each aboveground container of more than 2000-gal (7.6 m³) water capacity shall be piped vertically upward to a point at least 7 ft (2.1 m) above the top of the container, and the discharge opening shall be unobstructed to the open air.

Delete section ~~6.9.3.14~~ 6.11.3.14 and insert in lieu thereof the following new section:

~~6.9.3.14~~ **6.11.3.14** Metallic piping shall be protected against corrosion in accordance with ~~6.9.3.14(A)~~ 6.11.3.14(A) through ~~6.9.3.14(C)~~ 6.11.3.14(C). Underground gas piping that is outside a building shall not be in physical contact with any concrete.

(A) Piping and tubing of 1-inch (25 mm) nominal diameter or smaller shall be protected in accordance with ~~6.17.1~~ 6.19.1 or ~~6.17.2~~ 6.19.2.

(B) Piping and tubing larger than 1-inch (25 mm) nominal diameter and installed aboveground shall be protected in accordance with ~~6.17.1~~ 6.19.1.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

~~(C) Steel piping larger than 1-inch (25 mm) nominal diameter installed underground shall have a cathodic protection system in accordance with 6.17.2(C) unless technical justification is approved by the authority having jurisdiction~~ Steel piping installed underground shall have a cathodic protection system in accordance with 6.19.2(C) unless technical justification is approved by the Authority Having Jurisdiction.

Delete section ~~6.14~~ 6.16 in its entirety.

Delete section ~~6.15~~ 6.17 in its entirety.

Delete paragraph ~~6.20.1.2(C)~~ 6.22.1.2(C) and insert in lieu thereof the following new paragraph:

~~6.20.1.2(C)~~ 6.22.1.2(C) Cylinders installed permanently on roofs of buildings shall be prohibited.

Delete section ~~6.20.11.1~~ 6.22.11.1, including paragraphs (A) through (F), and insert in lieu thereof the following new section:

~~6.20.11.1~~ 6.22.11.1 Cylinders installed permanently on roofs of buildings shall be prohibited.

Delete section ~~6.20.11.2~~ 6.22.11.2.

Delete section 7.2.1.1 and insert in lieu thereof the following new section:

7.2.1.1 Transfer operations shall be conducted by qualified personnel meeting the provisions of rule 661—226.4(101).

Delete section 11.2 and insert in lieu thereof the following new section:

11.2 Each person engaged in installing, repairing, filling, or otherwise servicing an LP-gas engine fuel system shall be trained in accordance with rule 661—226.4(101) and trained under the applicable installation and maintenance procedures established by the manufacturer.

Delete section 12.4.7.4.3 and insert in lieu thereof the following new section:

12.4.7.4.3 A label indicating the date of the successful test and/or the date of the next required verification test shall be affixed in a clearly identified and easily accessible location. A clearly identified and easily accessible location could be (1) on the container near the fill point, (2) on the stepwell of a bus, (3) on the inside of the doorframe nearest the remote fill location on the vehicle, or (4) on another location as approved by the Authority Having Jurisdiction (AHJ).

Delete section 12.5.2.1 and insert in lieu thereof the following new section:

12.5.2.1* Each person engaged in installing or maintaining an LP-gas engine fuel system shall be trained as follows:

(1) In accordance with rule 661—226.4(101).

(2) With general training on the nature of LP-gas engine fuel systems and their components.

(3) With training on the specific LP-gas engine fuel system to be installed or maintained.

All training shall be documented.

ITEM 2. Amend rule 661—226.4(101) as follows:

661—226.4(101) Qualifications of personnel.

226.4(1) Persons who transfer liquefied petroleum gas, who are employed to transport liquefied petroleum gas, or whose primary duties fall within the scope of this chapter shall be trained in proper handling and emergency response procedures.

a. Training shall include both initial training and refresher training that addresses but is not limited to safe work practices, the health and safety hazards of liquefied petroleum gas, emergency response procedures, and supervised on-the-job training.

(1) Initial training shall include participation in a recognized training program and shall include both a written qualification assessment (closed-book test) and a skills assessment, based on the objectives set forth in the recognized training program and the requirements of NFPA 54 National Fuel Gas Code, ~~2015~~ 2018 edition, NFPA 58 Liquefied Petroleum Gas Code, ~~2014~~ 2017 edition, and any applicable requirements established in this chapter.

(2) Refresher training shall include both a written qualification assessment (closed-book test) and a hands-on skills assessment based on requirements of NFPA 54 National Fuel Gas Code, ~~2015~~ 2018 edition, NFPA 58 Liquefied Petroleum Gas Code, ~~2014~~ 2018 edition, and any applicable requirements established in this chapter.

(3) to (5) No change.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

b. No change.

226.4(2) Persons who install, service, test, or maintain propane gas utilization equipment, or gas piping systems of which the equipment is a part, or accessories shall be trained in the proper procedures in accordance with applicable codes.

a. Initial training shall include participation in a training program and shall include both a written qualification assessment (closed-book test) and a skills assessment, based on the objectives set forth in the recognized training program and the requirements of NFPA 54 National Fuel Gas Code, ~~2015~~ 2018 edition, NFPA 58 Liquefied Petroleum Gas Code, ~~2014~~ 2017 edition, and this chapter.

b. Refresher training shall include both a written qualification assessment (closed-book test) and a hands-on skills assessment based on requirements of NFPA 54 National Fuel Gas Code, ~~2015~~ 2018 edition, NFPA 58 Liquefied Petroleum Gas Code, ~~2014~~ 2017 edition, and this chapter.

c. to f. No change.

226.4(3) to 226.4(5) No change.

ITEM 3. Amend paragraph **226.5(2)“a”** as follows:

a. All LP-gas piping systems that have operating pressures of 20 psig or less and all polyethylene and polyamide piping shall have system and equipment leakage tests performed in accordance with this chapter and Section 8.2 of NFPA 54, National Fuel Gas Code, ~~2015~~ 2018 edition.

ITEM 4. Amend subparagraph **226.5(4)“b”(2)** as follows:

(2) The gas customer shall be informed that the container is out of service and a qualified person must perform a leak check or other test on the system as required by this chapter or Section 8.2 of NFPA 54 National Fuel Gas Code, ~~2015~~ 2018 edition, before turning on the container service valve. Further action is the responsibility of the customer.

ITEM 5. Amend rule 661—226.8(101) as follows:

661—226.8(101) Installation and use of DOT specification MC330 or MC331 cargo tanks in stationary service. The installation and use of DOT specification MC330 or MC331 cargo tanks in stationary service shall be in accordance with NFPA 58, ~~2014~~ 2017 edition, and this chapter.

226.8(1) and 226.8(2) No change.

226.8(3) Alternate methods for preventing moisture or water from collecting in any container well may be considered in accordance with the equivalency requirements set forth in NFPA 58, ~~2008~~ 2017 edition, Section 1.5, Equivalency.

ARC 4533C

REGENTS BOARD[681]

Notice of Termination

Terminating rule making related to traffic and parking at universities

The Regents Board hereby terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on March 27, 2019, as **ARC 4351C**, proposing to amend Chapter 4, “Traffic and Parking at Universities,” Iowa Administrative Code.

Legal Authority for Rule Making

The above-mentioned rule making is terminated under the authority provided in Iowa Code sections 262.9 and 262.69.

Purpose and Summary

Currently, subrule 4.71(2) limits sanctions for violations of University of Northern Iowa parking rules to \$50 for each offense. The proposed amendment in Item 1 of **ARC 4351C** would have eliminated the \$50 per-sanction limit in order to facilitate a more efficient process for operational changes to the system

REGENTS BOARD[681](cont'd)

of parking rates. In accordance with existing rules, all proposed parking rates continue to be subject to University and Board of Regents approval.

The proposed amendment in Item 2 of **ARC 4351C** would have revised subrule 4.71(4) to increase the time period for filing an appeal of a registration violation or parking violation from seven days to ten days. The purpose of the proposed amendment was to deter nonpayment and permit additional time to file an appeal.

Reason for Termination

In consideration of comments received from members of the Administrative Rules Review Committee during the Committee's meeting held on April 5, 2019, the Board determined to terminate the Notice of Intended Action.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

ARC 4523C

REVENUE DEPARTMENT[701]

Notice of Intended Action

**Proposing rule making related to sourcing of taxable services
and providing an opportunity for public comment**

The Revenue Department hereby proposes to amend Chapter 26, "Sales and Use Tax on Services," and Chapter 223, "Sourcing of Taxable Services, Tangible Personal Property, and Specified Digital Products," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 421.17.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 423.15.

Purpose and Summary

In Item 2 of this proposed rule making, the Department proposes to amend a rule relating to the sourcing of taxable services to provide an explanation and examples of how taxable services should be sourced. Item 1 of this proposed rule making provides a cross reference to this sourcing rule in the rule regarding the service of photography in Chapter 26.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

REVENUE DEPARTMENT[701](cont'd)

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on July 23, 2019. Comments should be directed to:

Tim Reilly
Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306
Phone: 515.725.2294
Email: tim.reilly@iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Adopt the following **new** subrule 26.17(3):

26.17(3) Sourcing. For information about how various aspects of photography services may be sourced, see 701—subrule 223.2(1).

ITEM 2. Amend rule 701—223.2(423) as follows:

701—223.2(423) General sourcing rules for taxable services. Except as otherwise provided in the agreement, retailers providing taxable services in Iowa shall source the sales of those services using the destination sourcing requirements described in Iowa Code section 423.15. In determining whether to apply the provisions of Iowa Code section 423.15 to the sale of a taxable service, it is necessary to determine the location where the result of the service is received, first used, or could potentially be first used, by the purchaser or the purchaser’s donee. ~~With respect to taxable services performed on tangible personal property, the location where the retailer performs the taxable service does not determine the location where the purchaser receives the service. This rule and subsequent rules in Chapter 223 clarify the application of the definition of “receive” or “receipt” to various categories of services to assist in applying the sourcing provisions of Iowa Code section 423.15 to sales of services. The provisions of~~

REVENUE DEPARTMENT[701](cont'd)

these rules do not affect the obligation of a purchaser or lessee to remit additional tax, if any, to another taxing jurisdiction based on the use of the service at another location.

223.2(1) *Determining the “result” of a service.* Determining the location where the result of a service is received by a purchaser requires a fact-based inquiry on a case-by-case basis.

EXAMPLE 1: Company Z is a photography business located in Mason City, Iowa. Company Z enters into an agreement with Customer Y, a resident of the state of Illinois, to take a photoshoot in Okoboji, Iowa. Company Z charges Customer Y \$2,000 for the photoshoot itself and \$1,000 for printed photos once they are finalized. Customer Y pays Company Z \$3,000 in advance for the photoshoot and photographs. The photoshoot takes place as planned in Okoboji, and three weeks later Company Z sends Customer Y a package containing the photographs to Customer Y’s Illinois address.

The photoshoot is the result of Company Z’s service, which occurs in Okoboji, Iowa—the location where the performance of the photoshoot begins. Company Z must therefore charge Iowa sales tax and any applicable local option tax on the \$2,000 charge for the photoshoot. The \$1,000 charge for the photographs is a sale of tangible personal property and is sourced to Illinois—the location where the photographs are delivered. Company Z therefore does not need to charge Iowa sales tax on the \$1,000 but may be responsible for collecting and remitting Illinois tax.

EXAMPLE 2: Same facts as in Example 1, except that Company Z charges Customer Y a one-time, flat \$3,000 charge without any itemization or breakdown of the cost. This \$3,000 charge represents the sale of tangible personal property and is sourced to Illinois—the location where the photographs are delivered. Company Z therefore does not need to charge Iowa sales tax on the \$3,000 but may be responsible for collecting and remitting Illinois tax.

223.2(1) 223.2(2) *Subsequent use in Iowa.* If an Iowa purchaser is determined to owe sales tax in another state based on first use, Iowa use tax may still apply. If, subsequent to the first use in another state, the product or result of a service is used in Iowa, Iowa use tax applies. (See Iowa Code section 423.5.)

223.2(2) 223.2(3) *Measurement of use tax due.* If tax has been imposed on the sales price of services performed on tangible personal property in another state at a rate that is less than the Iowa use tax rate, the purchaser will have to pay Iowa use tax at a rate measured by the difference between the Iowa use tax rate and the tax rate imposed in the state where the service was first used. (See Iowa Code section 423.22.) There is no local option use tax.

EXAMPLE: An Iowa resident first uses the results of services performed on tangible personal property in another state and pays that state’s 5 percent sales tax to that state. The Iowa resident returns to Iowa to use the tangible personal property on which the service was performed. Iowa’s use tax rate on the services performed on the tangible personal property is 6 percent. The resident must remit to the department 1 percent use tax; no local option use tax is due. If, on the other hand, the other state’s sales tax rate is equal to or greater than Iowa’s use tax rate, the Iowa resident does not have to remit use tax to the department on the services performed on tangible personal property.

ARC 4535C**REVENUE DEPARTMENT[701]****Amended Notice of Intended Action****Proposing rule making related to remote sales and marketplace sales and providing an opportunity for public comment**

The Revenue Department hereby proposes to adopt Chapter 215, “Remote Sales and Marketplace Sales,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 421.17.

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State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 423.14A as amended by 2019 Iowa Acts, House File 779.

Purpose and Summary

The Department proposes to adopt the following new chapter of rules to implement sales tax collection requirements imposed on marketplace facilitators and remote sellers by 2018 Iowa Acts, Senate File 2417. These proposed rules provide information about how and when remote sellers and marketplace facilitators are required to register, collect, and remit sales tax in Iowa.

Reason for Amendment of Notice of Intended Action

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 13, 2019, as **ARC 4292C**. The Department received several written comments as well as oral comments at the March 5 public hearing for **ARC 4292C**. Also, since publication of the Notice, the legislature made changes to Iowa Code section 423.14A through 2019 Iowa Acts, House File 779. The Department proposes amending the original Notice on this topic to address some of the comments received during the public comment period for **ARC 4292C** and to make adjustments in response to House File 779.

The proposed changes include the following:

- Revising the rule on coupons to clarify that coupons offered both by marketplace facilitators and remote sellers reduce the taxable amount of a sale.
- Clarifying that a marketplace seller that merely advertises a product on a marketplace is not selling or offering to sell that product on the marketplace.
- Removing reference to the 200-separate-transaction threshold that was removed from Iowa Code section 423.14A(3).
- Clarifying the obligations of a marketplace facilitator when a purchaser returns a product directly to a marketplace seller.
- Explaining that an exemption certificate that identifies a marketplace facilitator as the seller may be used by a purchaser for sales made or facilitated by the marketplace facilitator.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa beyond the impact of the provisions of 2018 Iowa Acts, Senate File 2417, and 2019 Iowa Acts, House File 779, that it seeks to implement. Table 7 of the Legislative Services Agency Fiscal Note for Senate File 2417 estimated that collection on sales by “online sellers” and “online marketplaces” would increase General Fund revenues by \$27.6 million in fiscal year (FY) 2019, \$66.4 million in FY 2020, \$69.3 million in FY 2021, \$71.7 million in FY 2022, \$74.2 million in FY 2023, and \$76.5 million in FY 2024.

The elimination of the 200-separate-transaction threshold by 2019 Iowa Acts, House File 779, is estimated by the Legislative Services Agency to reduce General Fund revenues by \$0.9 million in FY 2020, \$1.0 million in FY 2021, \$1.1 million in FY 2022, \$1.3 million in FY 2023, and \$1.4 million in FY 2024.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

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Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on July 23, 2019. Comments should be directed to:

Tim Reilly
 Department of Revenue
 Hoover State Office Building
 P.O. Box 10457
 Des Moines, Iowa 50306
 Phone: 515.725.2294
 Email: tim.reilly@iowa.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

July 23, 2019
 9 to 10 a.m.

Room 430, Fourth Floor
 Hoover State Office Building
 Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action is proposed:

Adopt the following **new** 701—Chapter 215:

CHAPTER 215
 REMOTE SALES AND MARKETPLACE SALES

701—215.1(423) Definitions.

215.1(1) *Incorporation of definitions.* To the extent it is consistent with Iowa Code chapter 423 and this chapter, all other words and phrases used in this chapter shall mean the same as defined in Iowa Code sections 423.1 and 423.14A and rule 701—211.1(423).

215.1(2) *Chapter-specific definitions.* For purposes of this chapter, unless the context otherwise requires:

“*Gross revenue from sales*” means all revenue from Iowa sales.

“*Iowa sales*” means the same as defined in Iowa Code section 423.14A(1) “*a.*” “Iowa sales” includes all retail sales, whether taxable or exempt, and other sales of tangible personal property, specified digital products, or services otherwise sold into Iowa or for delivery into Iowa, including wholesale or sale for resale. “Iowa sales” includes sales made through a marketplace.

“*Marketplace*” means any physical or electronic place, including but not limited to a store, booth, Internet website, catalog, television or radio broadcast, or a dedicated sales software application, where

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a marketplace seller sells or offers for sale tangible personal property, or specified digital products, or where services are offered for sale into Iowa regardless of whether the tangible personal property, specified digital product, marketplace seller, or marketplace has a physical presence in Iowa.

“*Physical presence in Iowa*” means the activities described in Iowa Code section 423.1(48) “a”(1).

“*Remote seller*” means a retailer that does not have a physical presence in Iowa but that makes sales of tangible personal property, specified digital products, or services that are sourced to Iowa.

“*Retailer*” means the same as defined in Iowa Code section 423.1(47). “Retailer” includes a marketplace facilitator that meets or exceeds the sales threshold and includes a remote seller.

“*Sales threshold*” means the revenue level that triggers collection and remittance obligations for Iowa sales tax and local option tax as described in Iowa Code section 423.14A(3): \$100,000 or more in gross revenue from Iowa sales into Iowa in either the current or immediately prior calendar year.

701—215.2(423) Retailers with physical presence in Iowa.

215.2(1) *Sales threshold inapplicable.* The sales threshold does not apply to any seller, marketplace facilitator, or other retailer that has physical presence in Iowa. A seller, marketplace facilitator, or other retailer with physical presence in Iowa must collect and remit Iowa sales tax and any applicable local option sales tax pursuant to Iowa Code section 423.14 even if the sales threshold is not met.

215.2(2) *Mixed marketplace and nonmarketplace sales.* A retailer with physical presence in Iowa who makes both marketplace and nonmarketplace sales must do the following:

a. Collect Iowa sales tax and any applicable local option tax on any taxable sales on which the marketplace does not collect tax.

b. Report on its Iowa sales tax return its gross revenue from all Iowa sales, including any marketplace sales on which the marketplace facilitator collected Iowa sales tax and applicable local option tax, regardless of whether the sales threshold is met.

EXAMPLE: Seller X is an Iowa-based business, with property and personnel located in Iowa. Seller X has \$80,000 in gross revenue from Iowa sales. Seller X makes \$10,000 of gross revenue from Iowa sales through a marketplace facilitator that collects Iowa sales tax and applicable local option sales tax. The remaining \$70,000 in gross revenue comes from Iowa sales made at Seller X’s storefront in Iowa. Seller X must collect and remit Iowa sales tax and applicable local option sales tax on the \$70,000 in nonmarketplace sales. On its Iowa sales tax return, Seller X should report \$80,000 in gross revenue from sales. Seller X may take a deduction on its Iowa sales tax return of \$10,000 for sales on which the marketplace collected Iowa sales tax and applicable local option sales tax.

701—215.3(423) Remote sellers—registration and collection obligations.

215.3(1) *Combined Iowa sales from all sources.* Remote sellers must determine whether they meet the sales threshold based on the total of their Iowa sales through marketplaces combined with their nonmarketplace Iowa sales.

215.3(2) *Remote sellers with Iowa sales solely through marketplaces.* If a remote seller meets the sales threshold but only makes retail sales in Iowa through marketplaces, the remote seller’s registration and collection obligations depend on whether all of the marketplace facilitators through which the remote seller makes Iowa sales are registered to collect Iowa sales tax and applicable local option tax.

a. *Registered marketplace facilitators.* If all the marketplace facilitators used by the remote seller to make taxable Iowa sales collect Iowa sales tax and applicable local option sales tax, the remote seller does not have to collect the tax. The marketplace facilitator will report and pay Iowa sales tax and applicable local option sales tax on a sales tax return filed by the marketplace facilitator.

EXAMPLE: Seller X has \$200,000 in gross revenue from Iowa sales. Seller X makes all of its Iowa sales through a marketplace facilitator that collects Iowa sales tax and applicable local option sales tax on sales. Seller X does not need to register for an Iowa sales tax permit or file an Iowa sales tax return. The marketplace facilitator will report the Iowa sales tax and applicable local option sales tax on the marketplace facilitator’s Iowa sales tax return.

b. *Nonregistered marketplace facilitators.* If a marketplace facilitator is not required to or fails to register and collect tax in Iowa, remote sellers who exceed the sales threshold must obtain an Iowa sales

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tax permit, collect Iowa sales tax and applicable local option sales tax, and file Iowa sales tax returns for sales made on that marketplace.

EXAMPLE: Seller X has \$200,000 in gross revenue from Iowa sales. Seller X has \$2,000 gross revenue from sales on Marketplace Y and \$198,000 in gross revenue from sales on Marketplace Z. Marketplace Y meets the sales threshold and is registered to collect and remit Iowa sales tax and applicable local option sales tax in Iowa. Marketplace Z, however, has very few, low-cost Iowa sales, and meets neither the gross revenue nor volume of sales threshold, and is therefore not required to and does not collect tax on Iowa sales. Seller X must collect Iowa sales tax and applicable local option sales tax on retail sales sourced to Iowa that are made on Marketplace Z.

215.3(3) *Remote sellers making both marketplace and nonmarketplace sales.* A remote seller that exceeds the sales threshold and makes nonmarketplace Iowa sales, such as through the remote seller's own website, must obtain an Iowa sales tax permit. The remote seller must report on its Iowa sales tax return its gross revenue from all Iowa sales. The remote seller would be able to deduct the amount of gross sales made through any marketplaces registered to collect tax in Iowa on the remote seller's sales tax return. A remote seller making Iowa sales through a marketplace operated by an unregistered marketplace facilitator must collect and remit Iowa sales tax and applicable local option sales tax on those sales.

701—215.4(423) Marketplace facilitators—registration and collection obligations. Marketplace facilitators that meet the sales threshold must collect and remit Iowa sales tax and applicable local option sales tax on all taxable sales made through their marketplace that are sourced to Iowa. Marketplace facilitators must collect Iowa sales tax on all taxable Iowa sales, regardless of the location or sales volume of the marketplace sellers who make sales on marketplace facilitator's marketplaces.

EXAMPLE: M is a marketplace facilitator that meets the sales threshold and therefore collects Iowa sales tax and applicable local option sales tax on Iowa sales facilitated through M's marketplace. Seller S lists soccer balls for sale on M's marketplace. A purchaser in Iowa buys a soccer ball listed by S on M's marketplace. The soccer ball is delivered to the purchaser's home address in Iowa. M must collect Iowa sales tax and applicable local option sales tax on the sale of the soccer ball. The outcome is the same regardless of whether S is located in Iowa and regardless of S's Iowa sales volume.

701—215.5(423) Advertising on a marketplace. A marketplace seller does not sell or offer to sell tangible personal property, a specified digital product, or a service on a marketplace when merely advertising that product on a marketplace.

701—215.6(423) Commencement of collection obligation and sales tax liability.

215.6(1) *Commencement of collection obligation.* If a remote seller or marketplace facilitator without physical presence in Iowa did not exceed the sales threshold for the prior year, and therefore does not collect sales tax in the current year, and exceeds the sales threshold in the current year, the remote seller or marketplace facilitator must collect Iowa sales tax and applicable local option sales tax starting on the first day of the next calendar month that starts at least 30 days from the day the remote seller or marketplace facilitator first exceeded the sales threshold. The remote seller or marketplace facilitator must collect tax through the end of the calendar year in which the sales threshold was met or exceeded as well as the entire next calendar year.

EXAMPLE: Company S, a remote seller, did not exceed the sales threshold in 2018. On September 15, 2019, S exceeds the sales threshold for the first time. S must register to collect Iowa sales tax and must begin collecting Iowa sales tax and applicable local option sales tax on November 1, 2019. S must continue to collect through at least December 31, 2020. S's sales volume in 2020 and later years will determine whether S must collect Iowa sales tax and applicable local option sales tax after December 31, 2020.

215.6(2) *Commencement of sales tax liability.* If a remote seller or marketplace facilitator without physical presence in Iowa exceeds the sales threshold as described in subrule 215.6(1), the remote seller or marketplace facilitator without physical presence in Iowa shall not be liable for any Iowa sales tax

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and applicable local option sales tax not collected beginning on January 1 of the current year through the day prior to the date the remote seller or marketplace facilitator without physical presence in Iowa is obligated to collect the tax as described in subrule 215.6(1). Purchasers will be liable for any use tax that accrues prior to the date the remote seller or marketplace facilitator without physical presence in Iowa is obligated to collect Iowa sales tax and applicable local option sales tax as described in subrule 215.6(1).

215.6(3) Permit registration. If a remote seller or marketplace facilitator without physical presence in Iowa that makes taxable sales exceeds the sales threshold, the remote seller or marketplace facilitator without physical presence in Iowa must register for a sales tax permit under 701—Chapter 13 prior to the date the remote seller or marketplace facilitator without physical presence in Iowa is obligated to collect Iowa sales tax and applicable local option sales tax as described in subrule 215.6(1).

701—215.7(423) Retailers registered and collecting who fail to meet or exceed sales threshold. If a retailer is registered to collect Iowa sales tax and applicable local option sales tax and collects in year 1 and fails to meet or exceed the sales threshold in year 2, the retailer must still collect all applicable sales taxes in year 2. If the retailer does not meet or exceed the sales threshold at any point in year 2, the retailer is not required to collect and remit Iowa sales tax or applicable local option sales tax in year 3. However, if a retailer is registered to collect, the retailer must continue collecting regardless of the impact of the sales threshold. A retailer that falls under the sales threshold may either submit sales tax returns demonstrating it did not collect tax until a time in the future when the retailer meets or exceeds the sales threshold or cancel its sales tax permit if it wishes to cease collecting. If the retailer meets or exceeds the sales threshold at any point thereafter, the retailer would need to register again in accordance with 701—Chapter 13 and begin collecting in accordance with this chapter.

EXAMPLE: Company S, a remote seller, exceeds the sales threshold on June 25, 2019. S must collect Iowa sales tax and applicable local option sales tax beginning August 1, 2019, and must collect for all of 2020. S does not meet or exceed the sales threshold in 2020. S is not obligated to collect sales tax on January 1, 2021. S may cease collection and cancel its sales tax permit effective January 1, 2021.

701—215.8(423) Coupons; incorporation of rule 701—212.3(423). Coupons and other discounts offered by marketplace facilitators and remote sellers are retailer's discounts, which reduce the sales price and thus the taxable amount of a sale. The requirements of rule 701—212.3(423) shall apply to marketplace facilitators and remote sellers in the same manner that those requirements apply to retailers.

701—215.9(423) Customer returns marketplace purchase directly to marketplace seller.

215.9(1) If a marketplace facilitator collects Iowa sales tax and applicable local option sales tax on the sale and the customer returns the item directly to the marketplace seller, either the marketplace facilitator or marketplace seller shall refund the full price paid by the customer including all tax collected by the marketplace facilitator upon acknowledgement of receipt of the item by the marketplace seller.

215.9(2) If the marketplace facilitator does not refund the amount paid and instead requires or permits the marketplace seller to do so, the marketplace seller shall refund the full price paid by the customer including all tax collected by the marketplace facilitator. The marketplace seller shall seek reimbursement of Iowa sales tax and applicable local option sales tax from the marketplace facilitator. The marketplace facilitator shall reimburse the returned Iowa sales tax and applicable local option sales tax to the marketplace seller once the marketplace seller has adequately demonstrated that the marketplace seller returned the tax in conjunction with a return made directly to the marketplace seller. The marketplace facilitator may claim a credit for the return of Iowa sales tax and local option sales tax on its Iowa sales tax return.

215.9(3) Nothing in this rule requires a marketplace seller to accept a return as described in this rule. Nothing in this rule requires a marketplace facilitator to allow returns to be made directly to a marketplace seller.

701—215.10(423) Exempt and nontaxable sales.

REVENUE DEPARTMENT[701](cont'd)

215.10(1) Exempt sales. A retailer required to collect and remit Iowa sales tax and applicable local option sales tax in accordance with Iowa Code section 423.14A and this chapter is responsible for correctly applying exemptions for tangible personal property, specified digital products, and services. As a member of the streamlined sales tax governing board, the department maintains a taxability matrix to describe whether various items are taxable or exempt. See rule 701—240.6(423) for an explanation of the liability relief provided to retailers who rely on the taxability matrix in determining whether to collect tax on an item.

215.10(2) Nontaxable sales. A retailer, including an Iowa retailer with a physical presence in Iowa, a remote seller, or a marketplace facilitator, that makes or facilitates only nontaxable sales, such as sale for resale or wholesale transactions, is not required to register for a sales tax permit.

215.10(3) Exemption certificates submitted to a marketplace facilitator. An exemption certificate as described in rule 701—15.3(422,423) that identifies the marketplace facilitator as the seller may be used by the purchaser for sales made or facilitated by the marketplace facilitator.

701—215.11(423) Other taxes for marketplace sales and items not subject to sales/use tax. A marketplace facilitator is not obligated to collect tax on a product sold through a marketplace it operates that is not subject to Iowa sales and use tax.

EXAMPLE: A marketplace facilitator allows marketplace sellers to list for sale vehicles subject to registration under Iowa Code chapter 321, including the fee for new registration imposed in accordance with Iowa Code section 321.105A. Because the fee for new registration is not imposed under Iowa Code chapter 423, the marketplace facilitator is not obligated to collect the fee for new registration.

701—215.12(423) Administration; incorporation of 701—Chapter 11. Except as otherwise stated in this chapter, the requirements of 701—Chapter 11 shall apply to all retailers, including remote sellers and marketplace facilitators, required to collect and remit sales tax under this chapter.

701—215.13(423) Filing returns; payment of tax; penalty and interest; incorporation of 701—Chapter 12. Except as otherwise stated in this chapter, the filing requirements of 701—Chapter 12 shall apply to all retailers, including remote sellers and marketplace facilitators, required to collect and remit sales tax under this chapter.

701—215.14(423) Permits; incorporation of 701—Chapter 13. Except as otherwise stated in this chapter, the permit requirements of 701—Chapter 13 shall apply to all retailers, including remote sellers and marketplace facilitators, required to collect and remit Iowa sales tax and applicable local option sales tax under this chapter.

These rules are intended to implement Iowa Code section 423.14A.

DEPARTMENT OF TRANSPORTATION

Advisory Notice

Adjusted Bid Thresholds for City and County Highway, Bridge, and Culvert Construction, Reconstruction and Improvement Projects

Pursuant to the authority of Iowa Code section 314.1B, the Director of Transportation gives an advisory notice of adjusted bid thresholds for city and county highway, bridge, and culvert construction, reconstruction and improvement projects. The adjusted bid threshold values will become effective January 1, 2020.

The horizontal infrastructure bid threshold subcommittee, composed of three contractors, two county representatives, one city representative and the Director's designee, corresponded via email during April and May of 2019 to review bid thresholds. After a review of the construction price index,

DEPARTMENT OF TRANSPORTATION(cont'd)

the subcommittee made the following three adjustments to bid thresholds for city and county highway, bridge, and culvert construction, reconstruction and improvement projects:

1. The county bid threshold in Iowa Code section 309.40 will be adjusted from \$89,000 to \$93,000 effective January 1, 2020.
2. The bid threshold in Iowa Code section 314.1(2) for cities with a population of 50,000 or less will be adjusted from \$48,000 to \$50,000 effective January 1, 2020.
3. The bid threshold in Iowa Code section 314.1(2) for cities with a population of more than 50,000 will be adjusted from \$69,000 to \$72,000 effective January 1, 2020.

All other bid thresholds for city and county highway, bridge, and culvert construction, reconstruction and improvement projects that are not addressed in this advisory notice will remain as currently stated in the appropriate Iowa Code sections.

ARC 4518C

VOTER REGISTRATION COMMISSION[821]

Notice of Intended Action

Proposing rule making related to forms produced by electronic poll books and providing an opportunity for public comment

The Voter Registration Commission hereby proposes to amend Chapter 2, "Voter Registration Forms, Acceptability, Registration Dates, and Effective Dates," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 17A.4, 47.8 and 48A.11.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 48A.11.

Purpose and Summary

This proposed new rule will provide county commissioners of elections with the option to utilize alternate voter registration forms produced by electronic poll books. Specifically, it will allow for voter registration forms to be completed on an electronic poll book and then printed onto thermal receipt paper. Currently, voter registration forms filled out with the assistance of an electronic poll book must "be identical in size, shape, weight and similar in color of paper, type size, and color of ink to those available from the registrar."

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any.

VOTER REGISTRATION COMMISSION[821](cont'd)

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Commission no later than 4:30 p.m. on July 23, 2019. Comments should be directed to:

Molly Widen
State Registrar of Voters
Lucas State Office Building, First Floor
321 East 12th Street
Des Moines, Iowa 50023
Email: molly.widen@sos.iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Emergency Rule Making Adopted by Reference

This proposed rule making is also published herein as an Adopted and Filed Emergency rule making (see **ARC 4519C**, IAB 7/3/19). The purpose of this Notice of Intended Action is to solicit public comment on that emergency rule making, whose subject matter is hereby adopted by reference.

ARC 4519C

VOTER REGISTRATION COMMISSION[821]

Adopted and Filed Emergency

Rule making related to forms produced by electronic poll books

The Voter Registration Commission hereby amends Chapter 2, “Voter Registration Forms, Acceptability, Registration Dates, and Effective Dates,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 17A.4, 47.8 and 48A.11.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 48A.11.

Purpose and Summary

This new rule will provide county commissioners of elections with the option to utilize alternate voter registration forms produced by electronic poll books. Specifically, it will allow for voter registration forms to be completed on an electronic poll book and then printed onto thermal receipt paper. Currently, voter registration forms filled out with the assistance of an electronic poll book must “be identical in size, shape, weight and similar in color of paper, type size, and color of ink to those available from the registrar.”

*Reason for Adoption of Rule Making Without
Prior Notice and Opportunity for Public Participation*

Pursuant to Iowa Code section 17A.4(3), the Commission finds that notice and public participation are unnecessary or impractical because the emergency adoption was approved by the Administrative Rules Review Committee.

In compliance with Iowa Code section 17A.4(3)“a,” the Administrative Rules Review Committee at its June 11, 2019, meeting reviewed the Commission’s determination and this rule making and approved the emergency adoption.

Reason for Waiver of Normal Effective Date

Pursuant to Iowa Code section 17A.5(2)“b”(1)(b), the Commission also finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective on June 11, 2019. The new rule confers a benefit on the public because it will allow county auditors to utilize voter registration forms produced by electronic poll books in elections on June 25, 2019.

Adoption of Rule Making

This rule making was adopted by the Commission on June 11, 2019.

Concurrent Publication of Notice of Intended Action

In addition to its adoption on an emergency basis, this rule making has been initiated through the normal rule-making process and is published herein under Notice of Intended Action as **ARC 4518C** to allow for public comment.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

VOTER REGISTRATION COMMISSION[821](cont'd)

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making became effective on June 11, 2019.

The following rule-making action is adopted:

Adopt the following **new** rule 821—2.17(48A):

821—2.17(48A) Voter registration forms produced by electronic poll books. “*Electronic poll book,*” “*epollbook,*” “*e-poll book,*” or “*electronic register*” means hardware and software components used to verify and process voting activity and changes in voter registration and to check in voters. This definition includes e-poll books in use in the commissioner’s office. However, this definition does not apply to the I-VOTERS statewide voter registration database.

2.17(1) At the discretion of the commissioner, an electronic poll book may be used to produce an alternate registration form. The alternate registration form may be completed by the voter, an election official, or an individual offering assistance at the direction and in the presence of the voter.

2.17(2) The electronic poll book shall print the alternate registration form, and the registrant shall sign the registration form produced by the electronic poll book. A signature or marking made in accordance with Iowa Code section 39.3(17) shall be accepted. The use of an electronic signature is not permitted.

2.17(3) Pursuant to Iowa Code section 48A.11, the form shall contain spaces for all the required and optional information solicited by the standard form, a list of the qualifications to register to vote, a statement to be signed by the applicant that the applicant is eligible to register to vote, and a statement of the penalty for submission of a false voter registration form.

2.17(4) If thermal receipt paper is used to print the alternate registration form, the commissioner shall endeavor to store the printed forms in a dark room with limited exposure to ultraviolet (UV) light, relative humidity between 45 percent and 65 percent, and temperature below 77 degrees Fahrenheit to assure preservation. The commissioner shall store an unaltered version of the completed registration application, including the applicant’s signature, as an electronic document. The electronic version of the registration application shall be uploaded and attached to the voter’s electronic record stored in the statewide voter registration database within 60 days of completion. The electronic document shall be kept for the retention period prescribed by Iowa Code section 48A.32. Once the alternate registration form is stored electronically, the original thermal paper document may be destroyed in accordance with Iowa Code section 48A.35.

2.17(5) If paper at least as thick as 20-pound xerographic paper is used to print the alternate registration form, the commissioner shall retain the form in accordance with Iowa Code sections 48A.32 and 48A.35.

VOTER REGISTRATION COMMISSION[821](cont'd)

2.17(6) All other types of paper shall require the approval of the commission prior to use.

[Filed Emergency 6/11/19, effective 6/11/19]

[Published 7/3/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/3/19.

ARC 4527C

EDUCATION DEPARTMENT[281]**Adopted and Filed****Rule making related to accreditation standards**

The State Board of Education hereby amends Chapter 12, “General Accreditation Standards,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 256.7(5).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 256.7(21), 256.7(26)“a”(1), 256.11, 256.11(5)“f,” and 257.38.

Purpose and Summary

Chapter 12 outlines general accreditation standards for schools and school districts. The changes to the rules reflect statutory changes made during the 2018 Legislative Session. 2018 Iowa Acts, Senate File 2318, added language regarding high school graduation requirements and notification to parents. 2018 Iowa Acts, House File 2390, section 3, made a change from “foreign” languages to “world” languages. 2018 Iowa Acts, Senate File 475, section 20, added a requirement that students take a financial literacy course for graduation and addressed the required components of the course. 2018 Iowa Acts, House File 2441, sections 2 to 6, made modifications relating to dropout prevention. Lastly, 2018 Iowa Acts, Senate File 2114, sections 1 to 3, changed the requirements and grade levels for student assessments.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on April 24, 2019, as **ARC 4402C**. A public hearing was held on May 14, 2019, at 11 a.m. in the State Board Room, Second Floor, Grimes State Office Building, Des Moines, Iowa. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the State Board on June 13, 2019.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the State Board for a waiver of the discretionary provisions, if any, pursuant to 281—Chapter 4.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or

EDUCATION DEPARTMENT[281](cont'd)

group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on August 7, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph **12.5(4)“l”** as follows:

l. Secondary credit.

(1) An individual pupil in a grade that precedes ninth grade may be allowed to take a course for secondary credit if all of the following are true:

1. The pupil satisfactorily completes the course.
2. The course is taught by a teacher licensed by the Iowa board of educational examiners for grades 9-12 9 through 12 and endorsed in the subject area.
3. The course meets all components listed in subrule 12.5(5) for the specific curricular area.
4. The board of the school district or the authorities in charge of the nonpublic school have developed enrollment criteria that a student must meet to be enrolled in the course.

(2) ~~Neither school districts nor accredited nonpublic schools are mandated to offer secondary credit under this paragraph.~~ If a student meets the requirement of subparagraph 12.5(4)“l”(1), the school district or accredited nonpublic school of enrollment shall issue high school credit for the unit to the student unless the student is unable to demonstrate proficiency or the school district or accredited nonpublic school determines that the course unit completed by the student does not meet the school district's or accredited nonpublic school's standards, as appropriate. If a student is denied credit under this paragraph, the school district or accredited nonpublic school denying credit shall provide to the student's parent or guardian in writing the reason for the denial. If credit is offered awarded under this paragraph, the credit must apply toward graduation requirements of the district or accredited nonpublic school.

ITEM 2. Amend subrule 12.5(5), introductory paragraph, as follows:

12.5(5) High school program, grades 9-12. In grades 9 through 12, a unit is a course or equivalent related components or partial units taught throughout the academic year as defined in subrule 12.5(14). The following shall be offered and taught as the minimum program: English-language arts, six units; social studies, five units; mathematics, six units as specified in 12.5(5)“c”; science, five units; health, one unit; physical education, one unit; fine arts, three units; ~~foreign world~~ language, four units; and vocational education, 12 units as specified in 12.5(5)“i.” Beginning with the 2010-2011 school year graduating class, all students in schools and school districts shall satisfactorily complete at least four units of English-language arts, three units of mathematics, three units of science, three units of social studies, and one full unit of physical education as conditions of graduation. The three units of social studies may include the existing graduation requirements of one-half unit of United States government and one unit of United States history.

ITEM 3. Amend paragraph **12.5(5)“h”** as follows:

h. Foreign World language (four units). The ~~foreign world~~ language program shall be a four-unit sequence of uninterrupted study in at least one language, which may include American Sign Language. ~~Foreign World~~ language instruction shall include listening comprehension appropriate to the level of instruction; rateable oral proficiency; reading comprehension appropriate to the level of instruction; writing proficiency appropriate to the level of instruction; and cultural awareness.

All high schools shall offer and teach the first two units of the sequence. The third and fourth units must be offered. However, the department of education may, on an annual basis, waive the third and fourth unit requirements upon the request of the board. The board must document that a licensed/certificated teacher was employed and assigned a schedule that would have allowed students

EDUCATION DEPARTMENT[281](cont'd)

to enroll, that the class was properly scheduled, that students were aware of the course offerings, and that no students enrolled.

ITEM 4. Adopt the following **new** paragraph **12.5(5)“k”**:

k. Personal finance literacy (one-half unit). All students shall complete at least one-half unit of personal finance literacy as a condition of graduation.

(1) The curriculum shall, at a minimum, address the following:

1. Savings, including emergency fund, purchases, and wealth-building.

2. Understanding investments, including compound and simple interest, liquidity, diversification, risk-return ratio, certificates of deposit, money market accounts, single stocks, bonds, mutual funds, rental real estate, annuities, commodities, and futures.

3. Wealth-building and college planning, including long-term and short-term investing using tax-favored plans, individual retirement accounts and payments from such accounts, employer-sponsored retirement plans and investments, public and private educational savings accounts, and uniform gifts and transfers to minors.

4. Credit and debt, including credit cards, payday lending, rent-to-own transactions, debt consolidation, automobile leasing, cosigning a loan, debt avoidance, and the marketing of debt, especially to young people.

5. Consumer awareness of the power of marketing on buying decisions including 0 percent interest offers; marketing methods, including product positioning, advertising, brand recognition, and personal selling; how to read a credit report and correct inaccuracies; how to build a credit score; how to develop a plan to deal with creditors and avoid bankruptcy; and the federal Fair Debt Collection Practices Act.

6. Financial responsibility and money management, including creating and living on a written budget and balancing a checkbook; basic rules of successful negotiating and techniques; and personality or other traits regarding money.

7. Insurance, risk management, income, and career decisions, including career choices that fit personality styles and occupational goals, job search strategies, cover letters, résumés, interview techniques, payroll taxes and other income withholdings, and revenue sources for federal, state, and local governments.

8. Different types of insurance coverage including renters, homeowners, automobile, health, disability, long-term care, identity theft, and life insurance; term life, cash value and whole life insurance; and insurance terms such as deductible, stop-loss, elimination period, replacement coverage, liability, and out-of-pocket.

9. Buying, selling, and renting advantages and disadvantages relating to real estate, including adjustable rate, balloon, conventional, government-backed, reverse, and seller-financed mortgages.

(2) One-half unit of personal finance literacy may count as one-half unit of social studies in meeting the requirements of paragraph 12.5(5)“b,” though the teacher providing personal finance literacy coursework that counts as one-half unit of social studies need not hold a social studies endorsement.

(3) Units of coursework that meet the requirements of any combination of coursework required under paragraph 12.5(5)“b,”“c,” or “h” and incorporate the curriculum required under subparagraph 12.5(5)“k”(1) shall be deemed to satisfy the offer-and-teach requirements of this paragraph, and a student who completes such units shall be deemed to have met the graduation requirement of this paragraph.

ITEM 5. Amend subrule 12.5(13) as follows:

12.5(13) Provisions for at-risk students. Each school district shall ~~include in its comprehensive school improvement plan the following provisions~~ make provision for meeting the needs of at-risk students: valid and systematic procedures and criteria to identify at-risk students throughout the school district’s school-age population, determination of appropriate ongoing educational strategies for alternative options education programs as required in Iowa Code section 280.19A, and review and evaluation of the effectiveness of provisions for at-risk students. This subrule does not apply to accredited nonpublic schools.

EDUCATION DEPARTMENT[281](cont'd)

~~Each school district using additional allowable growth for provisions for at-risk students shall incorporate educational program goals for at-risk students into its comprehensive school improvement plan. Provisions for at-risk students shall align with the student learning goals and content standards established by the school district or by school districts participating in a consortium. The comprehensive school improvement plan shall also include objectives, activities, cooperative arrangements with other service agencies and service groups, and strategies for parental involvement to meet the needs of at-risk children. The incorporation of these requirements into a school district's comprehensive school improvement plan shall serve as the annual application for additional allowable growth designated in Iowa Code section 257.38.~~

ITEM 6. Amend subrule 12.5(14) as follows:

12.5(14) Unit. A unit is a course which meets one of the following criteria: it is taught for at least 200 minutes per week for 36 weeks; it is taught for the equivalent of 120 hours of instruction; it requires the demonstration of proficiency of formal competencies associated with the course according to the State Guidelines for Competency-Based Education or its successor organization; or it is an equated requirement as a part of an innovative program filed as prescribed in rule 281—12.9(256). A fractional unit shall be calculated in a manner consistent with this subrule. Unless the method of instruction is competency-based, multiple-section courses taught at the same time in a single classroom situation by one teacher do not meet this unit definition for the assignment of a unit of credit. However, the third and fourth years of a foreign world language may be taught at the same time by one teacher in a single classroom situation, each yielding a unit of credit.

ITEM 7. Amend subparagraphs **12.8(1)“f”(1)** and **(2)** as follows:

(1) State indicators. Using at least one districtwide assessment, a school or school district shall assess student progress on the state indicators in, but not limited to, reading, mathematics, and science as specified in subrule 12.8(3). At least one districtwide assessment shall allow for, but not be limited to, the comparison of the school or school district's students with students from across the state and in the nation in reading, mathematics, and science. ~~A school or school district shall use additional assessments to measure progress on locally determined content standards in at least reading, mathematics, and science.~~

(2) Performance levels. A school or school district shall establish at least three performance levels on at least one districtwide valid and reliable assessment in the areas of reading and mathematics for at least grades 4, 8, and 11 and science in grades 8 and 11 10 or use the achievement levels as established by the Iowa Testing Program to meet the intent of this subparagraph (2).

ITEM 8. Amend subparagraph **12.8(3)“a”(3)** as follows:

(3) The percentage of all eighth and ~~eleventh~~ tenth grade students achieving proficient or higher science status using at least three achievement levels.

[Filed 6/14/19, effective 8/7/19]

[Published 7/3/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/3/19.

ARC 4528C

EDUCATION DEPARTMENT[281]

Adopted and Filed

Rule making related to language of instruction

The State Board of Education hereby amends Chapter 60, “Programs for Students of Limited English Proficiency,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 256.7(5).

EDUCATION DEPARTMENT[281](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, 2018 Iowa Acts, House File 2390, section 3.

Purpose and Summary

Chapter 60 outlines programs for students of limited English proficiency. This amendment to the chapter changes a reference to “foreign” languages to refer instead to “world” languages, which is consistent with 2018 Iowa Acts, House File 2390, section 3.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on April 24, 2019, as **ARC 4403C**. A public hearing was held on May 14, 2019, at 10 a.m. in the State Board Room, Second Floor, Grimes State Office Building, Des Moines, Iowa. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the State Board on June 13, 2019.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the State Board for a waiver of the discretionary provisions, if any, pursuant to 281—Chapter 4.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on August 7, 2019.

The following rule-making action is adopted:

Amend subrule 60.3(4) as follows:

60.3(4) Medium of instruction. Instruction in all secular subjects taught in both public and nonpublic schools shall be in the English language, except when the use of a ~~foreign~~ world language is deemed appropriate because the student is limited English proficient. When the student is limited English proficient, both public and nonpublic schools shall provide special instruction, which shall include but need not be limited to either instruction in English as a second language or transitional

EDUCATION DEPARTMENT[281](cont'd)

bilingual instruction until the student is fully English proficient or demonstrates a functional ability to speak, read, write, and understand the English language.

[Filed 6/14/19, effective 8/7/19]

[Published 7/3/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/3/19.

ARC 4529C

EDUCATION DEPARTMENT[281]

Adopted and Filed

Rule making related to operational function sharing

The State Board of Education hereby amends Chapter 98, "Financial Management of Categorical Funding," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 256.7.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 257.11.

Purpose and Summary

Chapter 98 outlines the financial management of categorical funding. The amendment to Chapter 98 reflects changes brought about during the 2018 Legislative Session that pertain to categorical funding for operational function sharing by Iowa school districts. The amendment includes the addition of master social workers and independent social workers licensed under Iowa Code chapters 147 and 154C to the list of eligible operational functions, as well as the removal of the five-year limit on eligibility for receiving supplemental weighting.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on April 24, 2019, as **ARC 4404C**. A public hearing was held on May 14, 2019, at 9 a.m. in the State Board Room, Second Floor, Grimes State Office Building, Des Moines, Iowa. No one attended the public hearing. The Department received one public comment regarding adding in "licensed" providers. The word "licensed" was added before "mental health counselor," and the words "licensed independent" were added before "social worker."

Adoption of Rule Making

This rule making was adopted by the State Board on June 13, 2019.

Fiscal Impact

Local districts may be able to share positions, resulting in savings to local school districts.

Jobs Impact

Local districts may be able to share positions, resulting in savings to local school districts.

EDUCATION DEPARTMENT[281](cont'd)

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the State Board for a waiver of the discretionary provisions, if any, pursuant to 281—Chapter 4.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on August 7, 2019.

The following rule-making action is adopted:

Amend rule 281—98.15(257) as follows:

281—98.15(257) Operational function sharing supplementary weighting. Operational function sharing supplementary weighting provides funding in addition to the student count that generates general purpose revenues and is for the purpose of incenting sharing of management-level staff. It is assumed that operational function sharing supplementary weighting covers only a portion of the costs of sharing management-level staff, a curriculum director, ~~or a school guidance or licensed mental health counselor, or a licensed independent social worker~~ and shall be fully expended within the ~~five-year~~ period of sharing. Therefore, school districts are not required to account for the operational function sharing supplementary weighting funding separate from the general purpose revenues.

[Filed 6/14/19, effective 8/7/19]

[Published 7/3/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/3/19.

ARC 4531C

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed

Rule making related to antlerless-deer-only hunting licenses

The Natural Resource Commission hereby amends Chapter 106, "Deer Hunting by Residents," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 455A.5(6)"a," 481A.39 and 481A.48(1).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 481A.39 and 481A.48(1).

NATURAL RESOURCE COMMISSION[571](cont'd)

Purpose and Summary

Chapter 106, which governs deer hunting by residents in the State of Iowa, sets regulations for deer hunting and includes season dates, bag limits, possession limits, shooting hours, areas open to hunting, licensing procedures, means and methods of take, and transportation and reporting requirements.

This rule making makes two amendments to Chapter 106. First, the rule making adds Winneshiek County to the list of counties where a January antlerless-deer-only season is allowed. The addition of Winneshiek brings the total number of authorized January antlerless-deer-only season counties to five (Allamakee, Appanoose, Clayton, Wayne, and Winneshiek). This change, when coupled with increased antlerless-deer-only license quotas in those counties as discussed more below, will slow the spread of chronic wasting disease in that area of the state.

Second, the rule making modifies the antlerless-deer-only license quotas in a total of 24 counties. Quotas are being increased in Adair, Allamakee, Appanoose, Clarke, Clayton, Davis, Delaware, Dubuque, Fayette, Howard, Jackson, Jones, Lucas, Madison, Marion, Monroe, Van Buren, Warren, Wayne, and Winneshiek Counties to reduce deer densities for disease control or to alleviate negative human-deer interactions. Quotas are being decreased in Bremer, Fremont, Mills, and Woodbury Counties to stabilize a healthy local population. Statewide, the overall quota change is an increase of 3,525 licenses.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on May 8, 2019, as **ARC 4422C**. A public hearing was held on May 28, 2019, at 12 noon in Conference Room 4E, Wallace State Office Building, Des Moines, Iowa. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Commission on June 13, 2019.

Fiscal Impact

This rule making has no negative fiscal impact to the state of Iowa. Deer hunting has been relatively constant in Iowa for many years, and none of the changes will substantially alter hunters' ability to purchase tags and pursue deer. Importantly, no license fee changes are included in this rule making. The Commission does anticipate a possibly minor increase in license sales from this rule making due to the availability of 3,525 additional tags statewide. However, many of these tags will be free or low-cost (\$10) tags. Any revenue resulting from this rule making shall be deposited into the State Fish and Game Protection Fund. A copy of the fiscal impact statement is available from the Department of Natural Resources (Department) upon request.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found. A copy of the jobs impact statement is available from the Department upon request.

Waivers

This rule is subject to the waiver provisions of 571—Chapter 11. Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or

NATURAL RESOURCE COMMISSION[571](cont'd)

group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on August 7, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 106.6(4) as follows:

106.6(4) *January antlerless-deer-only licenses.* Licenses for the January antlerless-deer-only season shall be available in the following counties: Allamakee, Appanoose, Clayton, ~~and Wayne, and Winneshiek~~. Prior to December 15, a hunter may purchase up to three January antlerless-deer-only licenses. Beginning December 15, an unlimited number of paid antlerless-deer-only licenses may be purchased for the January antlerless-deer-only season until the antlerless-deer-only quota as described in 106.6(6) is met in the aforementioned counties. These licenses may be obtained regardless of any other paid any-sex or paid antlerless-deer-only licenses that may have been obtained.

ITEM 2. Amend subrule 106.6(6) as follows:

106.6(6) *Antlerless-deer-only licenses.* Paid antlerless-deer-only licenses will be available by county as follows:

County	Quota	County	Quota	County	Quota
Adair	1025 <u>1200</u>	Floyd	0	Monona	850
Adams	1450	Franklin	0	Monroe	1950 <u>2250</u>
Allamakee	3700 <u>3800</u>	Fremont	400 <u>300</u>	Montgomery	750
Appanoose	2400 <u>2700</u>	Greene	0	Muscatine	775
Audubon	0	Grundy	0	O'Brien	0
Benton	325	Guthrie	1950	Osceola	0
Black Hawk	0	Hamilton	0	Page	750
Boone	300	Hancock	0	Palo Alto	0
Bremer	500 <u>400</u>	Hardin	0	Plymouth	0
Buchanan	300	Harrison	850	Pocahontas	0
Buena Vista	0	Henry	925	Polk	1350
Butler	150	Howard	350 <u>450</u>	Pottawattamie	850
Calhoun	0	Humboldt	0	Poweshiek	300
Carroll	0	Ida	0	Ringgold	1600
Cass	400	Iowa	450	Sac	0
Cedar	775	Jackson	825 <u>975</u>	Scott	200
Cerro Gordo	0	Jasper	775	Shelby	0
Cherokee	0	Jefferson	1650	Sioux	0
Chickasaw	375	Johnson	850	Story	150
Clarke	2100 <u>2400</u>	Jones	800 <u>950</u>	Tama	200
Clay	0	Keokuk	450	Taylor	1600
Clayton	3600 <u>3800</u>	Kossuth	0	Union	1500
Clinton	400	Lee	1275	Van Buren	2000 <u>2100</u>
Crawford	0	Linn	850	Wapello	1825
Dallas	1875	Louisa	675	Warren	2200 <u>2700</u>
Davis	1600 <u>1700</u>	Lucas	2200 <u>2500</u>	Washington	750
Decatur	2200	Lyon	0	Wayne	2400 <u>2700</u>

NATURAL RESOURCE COMMISSION[571](cont'd)

County	Quota	County	Quota	County	Quota
Delaware	800 <u>950</u>	Madison	2600 <u>3000</u>	Webster	0
Des Moines	800	Mahaska	475	Winnebago	0
Dickinson	0	Marion	1650 <u>1850</u>	Winneshiek	2375 <u>2500</u>
Dubuque	825 <u>975</u>	Marshall	150	Woodbury	625 <u>400</u>
Emmet	0	Mills	750 <u>500</u>	Worth	0
Fayette	1900 <u>2000</u>	Mitchell	0	Wright	0

[Filed 6/13/19, effective 8/7/19]

[Published 7/3/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/3/19.

ARC 4530C

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed

Rule making related to bag limits for bobcats

The Natural Resource Commission hereby amends Chapter 108, "Mink, Muskrat, Raccoon, Badger, Opossum, Weasel, Striped Skunk, Fox (Red and Gray), Beaver, Coyote, River Otter, Bobcat, Gray (Timber) Wolf and Spotted Skunk Seasons," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 455A.5(6)"a," 481A.38, 481A.39 and 481A.87.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 481A.87.

Purpose and Summary

Chapter 108 sets the season dates, bag limits, possession limits and areas open to hunting or trapping fur-bearing animals, including bobcats. This rule making is specific to bobcats and increases the bag limit for bobcats from one per fur harvester to three per fur harvester in the southern three tiers of counties (Adair, Adams, Appanoose, Cass, Clarke, Davis, Decatur, Des Moines, Fremont, Henry, Jefferson, Keokuk, Lee, Louisa, Lucas, Madison, Mahaska, Marion, Mills, Monroe, Montgomery, Page, Pottawattamie, Ringgold, Taylor, Union, Van Buren, Wapello, Warren, Washington, and Wayne). Population data from the past 12 years reveal that Iowa's bobcat population continues to grow and expand its distribution into more counties with suitable habitat. These data are compiled from a variety of sources, such as hunter surveys, harvest information, field reports, and sightings. This amendment is biologically responsible, as required by law, and will increase recreational opportunities for Iowa fur harvesters while helping minimize social issues associated with high bobcat densities.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on May 8, 2019, as **ARC 4423C**. A public hearing was held on May 28, 2019, at 12 noon in Conference Room 4E, Wallace State Office Building, Des Moines, Iowa. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

NATURAL RESOURCE COMMISSION[571](cont'd)

Adoption of Rule Making

This rule making was adopted by the Commission on June 13, 2019.

Fiscal Impact

The amendment may have a minor positive fiscal impact to the State Fish and Game Protection Fund. The amendment will enable trappers and hunters to harvest additional bobcats in the affected counties, thereby potentially increasing fur harvester license sales. License revenues are deposited into the State Fish and Game Protection Fund, which is a constitutionally protected funding source for fish and wildlife activities in the state. A copy of the fiscal impact statement is available from the Department of Natural Resources (Department) upon request.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found. A copy of the jobs impact statement is available from the Department upon request.

Waivers

This rule is subject to the waiver provisions of 571—Chapter 11. Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on August 7, 2019.

The following rule-making action is adopted:

Amend subrule 108.7(3) as follows:

108.7(3) Seasonal bag limit. The seasonal bag limit for river otters is 2 river otters and 1 bobcat per person. The seasonal bag limit for bobcats is 1 bobcat per person in the following counties: Audubon, Cedar, Cherokee, Clinton, Crawford, Dallas, Guthrie, Harrison, Iowa, Jackson, Jasper, Johnson, Lyon, Monona, Muscatine, Plymouth, Polk, Poweshiek, Scott, Shelby, Sioux, and Woodbury. The seasonal bag limit for bobcats is 3 bobcats per person in the following counties: Adair, Adams, Appanoose, Cass, Clarke, Davis, Decatur, Des Moines, Fremont, Henry, Jefferson, Keokuk, Lee, Louisa, Lucas, Madison, Mahaska, Marion, Mills, Monroe, Montgomery, Page, Pottawattamie, Ringgold, Taylor, Union, Van Buren, Wapello, Warren, Washington, and Wayne. River otters or bobcats trapped in excess of the seasonal bag limit or in a closed area must be turned over to the department; the trapper shall not be penalized.

[Filed 6/13/19, effective 8/7/19]

[Published 7/3/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/3/19.

ARC 4532C**TRANSPORTATION DEPARTMENT[761]****Adopted and Filed****Rule making related to traffic safety improvements and studies**

The Department of Transportation hereby amends Chapter 164, “Traffic Safety Improvement Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 307.12.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 312.2(11).

Purpose and Summary

This rule making amends Chapter 164, which provides funding for traffic safety improvements or studies on public roads under county, city or state jurisdiction. Generally, the amendments simplify the application process and review criteria by rearranging some of the rule language to make the chapter more reader-friendly, add and amend definitions, remove unnecessary language, and change the term “traffic safety fund” to “traffic safety improvement program” to reflect the correct name of the program.

The Traffic Safety Improvement Program (TSIP), established by the Iowa Legislature in 1987, was created for the purpose of implementing traffic safety features that will aid in reducing fatalities and serious injuries on Iowa’s roadways. The TSIP is funded using one-half of one percent of the Road Use Tax Fund in accordance with Iowa Code section 312.2(11). The program has traditionally been available to only the Department, cities and counties. The amendments expand TSIP eligibility to include all public entities that are responsible for public roads and streets in any state park, state institution, or other state land as defined in Iowa Code section 306.3(10). The amendments allow public agencies, such as state universities and state schools, to apply for TSIP funding directly. Currently, these entities must request that the appropriate underlying eligible governmental entity (usually a city or a district office of the Department) submit a TSIP project funding application on the entities’ behalf. The amendments eliminate the need for the extra layer of involvement.

The amendments clarify program operations and submittal requirements to improve efficiency of the program’s administration. Potential applicants are directed to the Department’s website for TSIP application directions, forms, and worksheets. In addition, TSIP applications will be submitted electronically, making the distribution of applications for review more efficient and saving on postage and a considerable amount of paper.

The amendments state that the funds awarded by the Iowa Transportation Commission but not used within the time specified in the project agreement will be retained for subsequent programming cycles. This provision will improve the efficiency of the program and ensure that available funds are being used to the maximum extent.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on April 10, 2019, as **ARC 4385C**. No public comments were received. One change from the Notice was made to correct the name of the Traffic and Safety Bureau.

Adoption of Rule Making

This rule making was adopted by the Department on June 12, 2019.

TRANSPORTATION DEPARTMENT[761](cont'd)

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. As specified in Iowa Code section 312.2(11), the TSIP is funded each year by one-half of one percent of the Road Use Tax Fund. Funding levels for the program will not change.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on August 7, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend rule 761—164.1(312) as follows:

761—164.1(312) Definitions.

“Commission” means the Iowa transportation commission.

“Department” means the Iowa department of transportation.

“Jurisdiction” means the department, or the a county, or a city or any other public agency having responsibility for and control over a road or street.

“Other public agency” means any board, commission or agency having jurisdiction and control over roads and streets in any state park, state institution and other state land. State park, state institution and other state land means as defined in Iowa Code section 306.3(10).

“Traffic safety fund improvement program” means the fund funding program created for traffic safety improvement projects pursuant to Iowa Code section ~~312.2~~ 312.2(11).

ITEM 2. Amend rule 761—164.2(312) as follows:

761—164.2(312) Information and forms. Information, instructions and application forms may be obtained from the ~~Office of~~ Traffic and Safety Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)239-1557; or on the department's website at www.iowadot.gov.

ITEM 3. Amend rule 761—164.3(312) as follows:

761—164.3(312) Program administration.

164.3(1) Purpose. The traffic safety fund improvement program provides ~~supplemental~~ funding for traffic safety improvements or studies on public roads under county, city or state jurisdiction.

164.3(2) Local participation. The department shall administer the traffic safety fund improvement program as a statewide program and will ~~encourage~~ coordinate local participation in the review and evaluation of applications for funding.

164.3(3) Funding.

TRANSPORTATION DEPARTMENT[761](cont'd)

~~a. The commission traffic and safety bureau shall review all applications and be responsible to program selected projects, subject to the availability of funds in order to make funding recommendations to the commission. The commission may choose to fund all or part of a project and may make funding or limit funding to specific work items. Funding may also be made dependent upon adherence to a time schedule or fulfillment of specified conditions.~~

~~b. The commission need not commit all funds available during a fiscal year. Unexpended funds Funds not committed by the commission shall be retained for subsequent programming cycles. Awarded funds not used within a specified period or remaining after project closure shall be retained for subsequent programming cycles.~~

~~c. The maximum traffic safety improvement program funding for a site-specific project improvement shall generally not exceed \$500,000. Total funding allotted for the traffic control device materials category shall not exceed \$500,000 annually. Total funding allotted for all research, the studies and public information initiatives outreach category shall not exceed \$500,000 annually. All project costs exceeding the commitment of traffic safety improvement program funds shall be the responsibility of the applicant.~~

ITEM 4. Amend rule 761—164.4(312) as follows:

761—164.4(312) Applicant eligibility. ~~The department, a county or an incorporated city~~ Any jurisdiction in the state of Iowa is eligible to apply for traffic safety funds. ~~Joint applications are encouraged when applicable, but the applicants improvement program funding.~~ Applicants shall designate one jurisdiction as the principal contact for a project involving multiple jurisdictions.

ITEM 5. Amend rule 761—164.5(312) as follows:

761—164.5(312) Project eligibility. Projects located on a public roadway within the state of Iowa are eligible for funding. Projects located on a private road or for a private purpose are not eligible.

~~164.5(1) Types of projects. Eligible applications shall address needs in one of three categories: construction or improvement of traffic operations at a specific site; purchase of materials for initial installation or replacement of obsolete traffic control signs; or transportation safety research, studies or public safety information initiatives.~~

~~164.5(2) Public roads. Only applications involving a primary road, secondary road, or city street presently open to public use shall be considered. A project for a private purpose or road is not eligible.~~

ITEM 6. Amend rule 761—164.6(312) as follows:

761—164.6(312) Eligible project costs.

~~164.6(1) Site-specific improvements category. The costs of construction or improvements eligible for traffic safety fund reimbursement~~ Activities considered eligible for funding are those required by, or integral to, the safety aspects of the project. Eligible activities include, but are not limited to, the following:

- ~~a. Road modernization, upgrading or reconstruction.~~
- ~~b. Bridge and culvert modernization, replacement or removal~~ Intersection improvements.
- ~~c. Road intersection and interchange improvement including channelization, traffic control devices or lighting.~~
- ~~d. c. Right-of-way required for a traffic safety project purchases.~~
- ~~e. d. Drainage and erosion control measures which are an integral part of the project.~~
- ~~f. e. Traffic control devices required by the project.~~
- ~~g. f. Guardrail Traffic barriers and other roadside safety devices.~~
- ~~h. g. Tree removal Removal of trees and other fixed objects.~~
- ~~i. Other construction activities directly related to or required by the safety project.~~

~~164.6(2) Traffic control devices category. The cost of materials purchased for initial installation of traffic control devices or replacement of obsolete traffic control devices to is considered eligible for funding. Devices shall comply with the applicable warrants in the Manual~~ “Manual on Uniform Traffic

TRANSPORTATION DEPARTMENT[761](cont'd)

Control Devices Devices” (MUTCD) as adopted in rule 761—130.1(321), Iowa Administrative Code, shall be eligible for funding.

164.6(3) ~~Research, studies~~ Studies and public information initiatives outreach category. Funding shall be available for ~~research, studies or public information initiatives related to traffic operations safety.~~ Activities considered eligible for funding include, but are not limited to, the following:

- ~~a.~~ a. Research shall address addressing statewide traffic safety concerns.
- ~~b.~~ b. A study shall address remedies for Studies addressing traffic operations safety concerns at a specific location locations. Study funds may be used to supplement federal Traffic Engineering Assistance Program (TEAP) funding.
- ~~c.~~ c. A public information initiative shall emphasize Initiatives emphasizing or improving traffic safety techniques or policies, and should be of statewide interest. An initiative of local scope may also be considered.

ITEM 7. Amend rule 761—164.7(312) as follows:

761—164.7(312) Ineligible project costs.

164.7(1) No change.

164.7(2) Activities and costs not eligible for traffic safety improvement program funding as a ~~portion of a~~ within the site-specific improvement improvements category include, but are not limited to:

- ~~a.~~ a. No change.
- ~~b.~~ b. ~~Safety-related activities associated with projects initiated for purposes other than traffic safety.~~ Contract administration costs.
- ~~c.~~ c. Design and construction engineering and inspection.
- ~~d.~~ d. Utility construction, reconstruction or adjustment, except as an integral part of a project.
- ~~e.~~ e. Sidewalks, bicycle shared-use paths, or railroad-highway crossings, except as an integral part of a project.
- ~~f.~~ f. Maintenance or energy costs for traffic control devices or lighting.
- ~~g.~~ g. Expenditures for items not related to the roadway.

164.7(3) Activities and costs not eligible for traffic safety improvement program funding as a ~~part of an application for~~ within the traffic control ~~device materials~~ devices category include, but may are not be limited to:

- ~~a.~~ a. Maintenance or energy costs for ~~traffic control devices or lighting.~~
- ~~b.~~ b. No change.

ITEM 8. Amend rule 761—164.8(312) as follows:

761—164.8(312) Applications. Applications for funding shall address needs in one of three categories: site-specific improvements, traffic control devices, or studies and outreach. Application procedures for each funding category will be distinct.

164.8(1) ~~An application by a city or county for funding site-specific construction must be submitted on a departmental form specifically used for the traffic safety fund. Comparable information will be provided by the department for state-initiated projects.~~ Applications in the site-specific improvements category shall be submitted electronically on forms provided on the department’s website. Required information shall include:

- ~~a.~~ a. The applicant’s name, mailing address, telephone number, and a designated contact person ~~for the project.~~
- ~~b.~~ b. No change.
- ~~c.~~ c. ~~The justification~~ Justification for the proposed construction project. Justification may be based on a location’s ~~inclusion in the department’s list of high accident locations, a TEAP-type study recommendation or a similar~~ crash history, a location’s crash risk, or recommendations from a traffic study generating a positive benefit/cost analysis for the proposed improvement.
- ~~d.~~ d. Data showing the anticipated effect of the project on traffic safety. Data shall include ~~accident~~ crash history ~~from~~ based on the department’s ~~Accident Location Analysis System (ALAS)~~ current crash

TRANSPORTATION DEPARTMENT[761](cont'd)

analysis software and the anticipated ~~accident crash~~ reduction, ~~both in number and type, expected~~ as a result of the project.

e. An itemized cost estimate for the project including a list of the sources and amounts of supplementary funds for the project. Safety-related work items and quantities shall be listed separately.

f. No change.

g. The jurisdiction's official endorsement, where applicable, of the project and written assurance that the improved site will be adequately maintained for a specified period of time.

164.8(2) ~~An application for funding to pay the cost of materials for~~ Applications in the traffic control device installation devices category shall be submitted in writing and electronically on forms provided on the department's website. Required information shall include:

a. and b. No change.

c. ~~An inventory or similar documentation providing justification~~ Justification for the requested ~~device devices,~~ including compliance with the applicable warrants in the "Manual on Uniform Traffic Control Devices" (MUTCD) as adopted in rule 761—130.1(321).

d. A cost estimate, and

e. A time schedule for installation after delivery.

e. f. The jurisdiction's official endorsement of the traffic control device project and written assurance that the traffic control device will be adequately maintained for a specified period of time.

164.8(3) ~~Research, a study or a public information initiative~~ Applications in the studies and outreach category shall be proposed in writing and submitted electronically on forms provided on the department's website. Required information shall include:

a. to c. No change.

d. A time schedule.

ITEM 9. Amend rule 761—164.9(312) as follows:

761—164.9(312) Processing the application.

164.9(1) Submission.

a. The jurisdiction shall submit ~~an original and three copies of~~ the complete application electronically to the office of traffic and safety bureau. An application may be submitted at any time ~~and shall be dated when received by the office of traffic and safety.~~

b. ~~All complete~~ Complete applications received before August 15 16 of each year shall be evaluated for funding in the following state fiscal year.

~~*c.* If an application is incomplete, the department shall return the application to the applicant to be resubmitted when complete. A resubmitted application shall be dated when received by the office of traffic and safety.~~

~~*d. c.* An unfunded application may be resubmitted for consideration during a subsequent funding period cycle.~~

e. d. An application may be withdrawn at any time.

164.9(2) Approval of projects. Department staff shall prepare, with input from ~~city and county~~ local officials, a proposed program of projects for each funding category and submit the programs to the commission for approval. The criterion for determining funding priorities in each category is the demonstrated relationship of the project to traffic safety.

ITEM 10. Amend rule 761—164.10(312) as follows:

761—164.10(312) Project agreement.

164.10(1) After the commission has approved funding ~~for a county or city project,~~ a project agreement shall be negotiated and executed between the department and the ~~local~~ jurisdiction. The agreement shall specify the conditions for project funding, which may include such items as the responsibility for planning, design, right-of-way, contracting, construction, materials inspection, documentation and the criteria for each. The agreement shall also specify the funding level for the eligible work items.

TRANSPORTATION DEPARTMENT[761](cont'd)

164.10(2) The department shall reimburse the ~~county or city~~ jurisdiction for actual eligible project costs not to exceed the amounts authorized by the project agreement.

~~**164.10(3)** Rescinded IAB 10/30/02, effective 12/4/02.~~

ITEM 11. Amend **761—Chapter 164**, implementation sentence, as follows:
These rules are intended to implement Iowa Code section ~~312.2~~ 312.2(11).

[Filed 6/12/19, effective 8/7/19]

[Published 7/3/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/3/19.

AGENCY	RULE	DELAY
Human Services Department[441]	amendments to chs 78, 79 [IAB 5/8/19, ARC 4430C]	Effective date of July 1, 2019, delayed until the adjournment of the 2020 session of the General Assembly by the Administrative Rules Review Committee at its meeting held June 11, 2019. [Pursuant to §17A.8(9)]