



IOWA ADMINISTRATIVE BULLETIN

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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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CITATION of Administrative Rules

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

This citation format applies only to external citations to the Iowa Administrative Code or Iowa Administrative Bulletin and does not apply to citations within the Iowa Administrative Code or Iowa Administrative Bulletin.

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)
441 IAC 79.1(1)“a”(1)“1”	(Numbered paragraph)

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 2022

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. 22 '21	Jan. 12 '22	Feb. 1 '22	Feb. 16 '22	Feb. 18 '22	Mar. 9 '22	Apr. 13 '22	July 11 '22
Jan. 5	Jan. 26	Feb. 15	Mar. 2	Mar. 4	Mar. 23	Apr. 27	July 25
Jan. 21	Feb. 9	Mar. 1	Mar. 16	Mar. 18	Apr. 6	May 11	Aug. 8
Feb. 4	Feb. 23	Mar. 15	Mar. 30	Apr. 1	Apr. 20	May 25	Aug. 22
Feb. 18	Mar. 9	Mar. 29	Apr. 13	Apr. 15	May 4	June 8	Sep. 5
Mar. 4	Mar. 23	Apr. 12	Apr. 27	Apr. 29	May 18	June 22	Sep. 19
Mar. 18	Apr. 6	Apr. 26	May 11	**May 11**	June 1	July 6	Oct. 3
Apr. 1	Apr. 20	May 10	May 25	May 27	June 15	July 20	Oct. 17
Apr. 15	May 4	May 24	June 8	June 10	June 29	Aug. 3	Oct. 31
Apr. 29	May 18	June 7	June 22	**June 22**	July 13	Aug. 17	Nov. 14
May 11	June 1	June 21	July 6	July 8	July 27	Aug. 31	Nov. 28
May 27	June 15	July 5	July 20	July 22	Aug. 10	Sep. 14	Dec. 12
June 10	June 29	July 19	Aug. 3	Aug. 5	Aug. 24	Sep. 28	Dec. 26
June 22	July 13	Aug. 2	Aug. 17	**Aug. 17**	Sep. 7	Oct. 12	Jan. 9 '23
July 8	July 27	Aug. 16	Aug. 31	Sep. 2	Sep. 21	Oct. 26	Jan. 23 '23
July 22	Aug. 10	Aug. 30	Sep. 14	Sep. 16	Oct. 5	Nov. 9	Feb. 6 '23
Aug. 5	Aug. 24	Sep. 13	Sep. 28	Sep. 30	Oct. 19	Nov. 23	Feb. 20 '23
Aug. 17	Sep. 7	Sep. 27	Oct. 12	Oct. 14	Nov. 2	Dec. 7	Mar. 6 '23
Sep. 2	Sep. 21	Oct. 11	Oct. 26	**Oct. 26**	Nov. 16	Dec. 21	Mar. 20 '23
Sep. 16	Oct. 5	Oct. 25	Nov. 9	**Nov. 9**	Nov. 30	Jan. 4 '23	Apr. 3 '23
Sep. 30	Oct. 19	Nov. 8	Nov. 23	Nov. 25	Dec. 14	Jan. 18 '23	Apr. 17 '23
Oct. 14	Nov. 2	Nov. 22	Dec. 7	**Dec. 7**	Dec. 28	Feb. 1 '23	May 1 '23
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Nov. 9	Nov. 30	Dec. 20	Jan. 4 '23	**Jan. 4 '23**	Jan. 25 '23	Mar. 1 '23	May 29 '23
Nov. 25	Dec. 14	Jan. 3 '23	Jan. 18 '23	Jan. 20 '23	Feb. 8 '23	Mar. 15 '23	June 12 '23
Dec. 7	Dec. 28	Jan. 17 '23	Feb. 1 '23	Feb. 3 '23	Feb. 22 '23	Mar. 29 '23	June 26 '23
Dec. 21	Jan. 11 '23	Jan. 31 '23	Feb. 15 '23	Feb. 17 '23	Mar. 8 '23	Apr. 12 '23	July 10 '23

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
3	Friday, July 22, 2022	August 10, 2022
4	Friday, August 5, 2022	August 24, 2022
5	Wednesday, August 17, 2022	September 7, 2022

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****

INSURANCE DIVISION[191]

Travel insurance, amendments to
ch 10
IAB 7/13/22 **ARC 6402C**

Via conference call
Contact Angela Burke Boston
Email: angela.burke.boston@iid.iowa.gov

August 3, 2022
9 a.m.
(If requested)

Five-year review of rules, 35.21,
35.40, 40.12(4), 55.20(7),
58.3(2), 58.16(3), 71.14(9),
101.1, 101.8(12), 101.9, 102.3
IAB 7/13/22 **ARC 6408C**

Via conference call
Contact Angela Burke Boston
Email: angela.burke.boston@iid.iowa.gov

August 3, 2022
8:30 a.m.
(If requested)

PROFESSIONAL LICENSURE DIVISION[645]

Behavior analysts, assistant
behavior analysts—fees, 5.3(3)
IAB 7/13/22 **ARC 6401C**

Fifth Floor Conference Room 526
Lucas State Office Bldg.
Des Moines, Iowa

August 2, 2022
9 to 9:30 a.m.

PUBLIC EMPLOYMENT RELATIONS BOARD[621]

Retention and recertification
elections—submission of
voter eligibility lists, 15.1,
15.2(2), 15.5
IAB 7/13/22 **ARC 6413C**

Via video conference
Contact the agency
Email: iaperb@iowa.gov

August 2, 2022
10 a.m. to 12 noon

REVENUE DEPARTMENT[701]

Permits; filing returns; payments
of sales and use taxes, rescind
chs 12, 13, 28, 29, 30; amend
chs 42, 52, 67, 81, 97, 103, 215;
adopt chs 201, 202, 258
IAB 7/13/22 **ARC 6399C**

Room 1 NW
Hoover State Office Bldg.
Des Moines, Iowa

August 11, 2022
9 to 10 a.m.

Sales, use, and excise tax, amend
chs 4, 27, 34, 67 to 70, 81 to 86,
91, 97, 103, 107, 109, 120, 122,
150, 215, 223, 226, 230; adopt
chs 210, 212, 216; rescind chs
16, 108, 241
IAB 7/13/22 **ARC 6400C**

Room 1 NW
Hoover State Office Bldg.
Des Moines, Iowa

August 11, 2022
10 to 11 a.m.

SECRETARY OF STATE[721]

Proposed constitutional
amendment—right to keep
and bear arms, 21.200(4)
IAB 7/13/22 **ARC 6414C**

Room 22
Iowa Capitol Bldg.
Des Moines, Iowa

August 12, 2022
10 a.m. to 12 noon

TRANSPORTATION DEPARTMENT[761]

Intermodal pilot project program,
rescind ch 201
IAB 6/29/22 **ARC 6395C**

Via conference call
Contact Tracy George
Email: tracy.george@iowadot.us

July 21, 2022
10 a.m.
(If requested)

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 6407C**HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action****Proposing rule making related to disability services management
and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 25, “Disability Services Management,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code chapter 225C.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 225C.

Purpose and Summary

This proposed rule making is a result of the five-year rules review for Chapter 25. Rules that are outdated or redundant are proposed to be eliminated. The proposed amendments also update definitions, terminology and cross-references, and ambiguous rules are clarified.

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 441—1.8(17A,217).

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 Department no later than 4:30 p.m. on August 2, 2022. Comments should be directed to:

Nancy Freudenberg
Department of Human Services
Hoover State Office Building, Fifth Floor
1305 East Walnut Street
Des Moines, Iowa 50319-0114
Email: appeals@dhs.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.

HUMAN SERVICES DEPARTMENT[441](cont'd)

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 **441—25.1(331)**, definitions of “Emergency care,” “Evidence-based services,” “Family support peer specialist,” “Homeless,” “Mental health professional,” “Peer support specialist,” “Respite services,” “Routine care” and “Urgent nonemergency need,” as follows:

“Emergency ~~care~~ services” means the same as defined in ~~rule 441—88.21(249A)~~ 441—subrule 24.4(15).

“Evidence-based services” or “evidence-based practices” means using interventions that have been rigorously tested; have yielded consistent, replicable results; and have proven safe, beneficial and effective and have established standards for fidelity of the practice.

“Family support peer specialist” means a parent, primary caregiver, foster parent or family member of an individual who has successfully completed standardized training to provide family support through the medical assistance program ~~or the Iowa Behavioral Health Care Plan~~.

“Homeless” means the same as “homeless person” ~~as defined in rule 441—25.11(331)~~ Iowa Code section 48A.2.

“Mental health professional” means the same as defined in Iowa Code section ~~228.1(6)~~ 228.1(7).

“Peer support specialist” means an individual who has experienced a severe and persistent mental illness and who has successfully completed standardized training to provide peer support services through the medical assistance program ~~or the Iowa Behavioral Health Care Plan~~.

“Respite services” means a temporary period of relief and support for individuals and their families provided in a variety of settings. The intent is to provide a safe environment with staff assistance for individuals who lack an adequate support system to address current issues related to a disability. Respite may be provided for a defined period of time; respite is either planned or provided in response to a crisis.

“Routine care” means ~~the same as defined in rule 441—88.21(249A)~~ care which is not urgent or emergent in nature and can wait for a regularly scheduled appointment without risk to the individual. A condition requiring routine care is not likely to substantially worsen without immediate intervention.

“Urgent ~~nonemergency~~ need” means ~~the same as defined in rule 441—88.21(249A)~~ existence of conditions that are not emergent in nature but that require expeditious treatment because of the prospect of the condition worsening without immediate intervention.

ITEM 2. Rescind the definitions of “Community-based crisis intervention service,” “State board,” “Strengths-based case management,” “Telephone crisis service” and “Walk-in crisis service” in rule **441—25.1(331)**.

ITEM 3. Rescind and reserve rule **441—25.3(331)**.

ITEM 4. Amend paragraph **25.4(2)“c”** as follows:

c. Crisis stabilization residential services. ~~An individual who has been determined to need CSRS shall receive CSRS within 120 minutes of referral. The service CSRS shall be located within 120 miles from the residence of the individual or be available within 120 minutes from the time of the determination that the individual needs CSRS.~~

ITEM 5. Amend paragraph **25.4(2)“e”** as follows:

e. Twenty-three-hour observation and holding. ~~An adult who has been determined to need 23-hour observation and holding shall receive 23-hour observation and holding within 120 minutes of referral. The service Twenty-three-hour observation and holding shall be located within 120 miles from the residence of the individual or be available within 120 minutes from the time of the determination that the individual needs 23-hour observation and holding.~~

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 6. Amend paragraph **25.4(3)“a”** as follows:

a. Outpatient.

(1) Emergency services: During an emergency, outpatient services shall be initiated to an individual within 15 minutes of telephone contact.

(2) Urgent: Outpatient services shall be provided to an individual within ~~one~~ 1 hour of presentation or 24 hours of telephone contact.

(3) Routine care: Outpatient services shall be provided to an individual within four weeks of request for appointment.

(4) Distance: Outpatient services shall be offered within 30 miles for an individual residing in an urban community and 45 miles for an individual residing in a rural community.

ITEM 7. Amend subrule 25.4(5) as follows:

25.4(5) Support for community living for adults. The first appointment shall occur within four weeks of the individual's request of support for community living services, including a home health aide, home and vehicle modifications, respite, and supportive community living.

ITEM 8. Amend subrule 25.4(6) as follows:

25.4(6) Support for employment for adults. The initial referral shall take place within 60 days of the individual's request of support for employment services, including day habilitation, job development, supported employment, and prevocational services.

ITEM 9. Amend subrule 25.4(7) as follows:

25.4(7) Recovery services for adults. An individual receiving recovery services, including family support and peer support, shall not have to travel more than 30 miles if residing in an urban area or 45 miles if residing in a rural area to receive services.

ITEM 10. Amend subrule 25.5(3) as follows:

25.5(3) Regions must have evidence-based practices that the region has independently verified as meeting established fidelity to evidence-based ~~service practice~~ models including, but not limited to, assertive community treatment ~~or strengths-based case management~~; integrated treatment ~~of~~ for co-occurring substance use and mental health disorders; supported employment; family psychoeducation; illness management and recovery; and permanent supportive housing.

ITEM 11. Amend paragraph **25.6(1)“c”** as follows:

c. Eligibility for access center services. To be eligible to receive access center services, an individual shall meet all of the following criteria:

(1) The individual is an adult in need of screening, assessment, services or treatment related to a mental health or substance use crisis.

(2) The individual shows no obvious signs of illness or injury indicating a need for immediate medical attention.

(3) The individual has not been determined ~~not~~ to need an acute inpatient psychiatric ~~hospital level of care~~ hospitalization.

~~(4) The individual does not have immediate access to alternative, safe, and effective services.~~

ITEM 12. Adopt the following new subparagraph **25.6(8)“a”(4)**:

(4) Regional reimbursement rates for non-Medicaid individuals receiving intensive residential services shall be negotiated by the region and the provider and shall be no less than the minimum Medicaid rate.

ITEM 13. Amend subparagraph **25.6(8)“b”(1)** as follows:

(1) Be enrolled as an HCBS 1915(i) habilitation provider or an HCBS 1915(c) intellectual disability waiver supported community living provider and in good standing with the Iowa Medicaid ~~enterprise.~~

ITEM 14. Amend subparagraph **25.6(8)“b”(5)**, introductory paragraph, as follows:

(5) Ensure that within the first year of employment, staff members complete 48 hours of competency-based training in mental health and multi-occurring conditions. During each consecutive

HUMAN SERVICES DEPARTMENT[441](cont'd)

year of employment, staff members shall complete 24 hours of competency-based training in mental health and multi-occurring conditions. Staff training shall include, but is not limited to, the following:

ITEM 15. Rescind subparagraph **25.6(8)“c”(2)**.

ITEM 16. Renumber subparagraph **25.6(8)“c”(3)** as **25.6(8)“c”(2)**.

ITEM 17. Amend **441—Chapter 25**, Division II preamble, as follows:

PREAMBLE

These rules define the standards for a regional service system. The mental health and disability services and children's behavioral health services ~~provided by counties operating as a region~~ shall be delivered in accordance with a regional service system management plan approved by the region's governing board and implemented by the regional administrator (Iowa Code section 331.393). ~~Iowa counties are encouraged to enter into a regional system when the regional approach is likely to increase the availability of services to residents of the state who need the services.~~ It is the intent of the Iowa general assembly that the adult residents of this state should have access to needed mental health and disability services and that Iowa children should have access to needed behavioral health services regardless of the location of their residence.

ITEM 18. Amend rule **441—25.11(31)**, definitions of “Emergency service,” “Medical savings account,” “Mental health professional” and “Regional services fund,” as follows:

“Emergency service services” means the same as defined in ~~rule 441—88.21(249A)~~ 441—subrule 24.4(15).

“Medical savings account” means an account that is exempt from federal income taxation pursuant to Section ~~220~~ 223 of the U.S. Internal Revenue Code (26 U.S.C. ~~§220~~ §223) as supported by documentation provided by the bank or other financial institution. Any withdrawal from a medical savings account other than for the designated purpose becomes a countable resource.

“Mental health professional” means the same as defined in Iowa Code section ~~228.1(6)~~ 228.1(7).

“Regional services service fund” means the mental health and disability regional services service fund created in Iowa Code section 225C.7A.

ITEM 19. Amend subrule 25.12(2) as follows:

25.12(2) Regional administrator. The formation of the regional administrator shall be as defined in Iowa Code sections 331.388, ~~and~~ 331.390, and 331.399.

a. No change.

b. The regional administrative entity shall enter into and manage performance-based contracts in accordance with Iowa Code section ~~225C.4(1)“u.”~~ 225C.4(1)“x.”

c. No change.

d. The regional administrative entity functions as a lead agency ~~utilizing shared county or regional staff or other means of limiting administrative costs.~~

e. and f. No change.

ITEM 20. Adopt the following **new** paragraph **25.14(1)“k”**:

k. Methods for reimbursing member counties if county employees are conducting regional work.

ITEM 21. Amend paragraph **25.14(3)“g”** as follows:

g. A process for performance of an annual independent audit of the regional administrator, and methods for submitting the audit to the department upon completion.

ITEM 22. Amend paragraph **25.15(3)“d”** as follows:

d. The individual has a diagnosis of intellectual disability as defined by ~~Iowa Code section 4.1(9A)~~ rule 441—83.60(249A).

ITEM 23. Amend paragraph **25.15(7)“a”** as follows:

a. Until funding is designated for other service populations, eligibility for the core service domains shall be as identified in Iowa Code section ~~331.397(1)“b.”~~ 331.397(2)“b.”

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 24. Amend paragraph **25.18(2)“e”** as follows:

e. Children’s behavioral health services. Identification of children’s behavioral health services as described in subrule 25.2(4), including contact information for the agencies responsible and eligibility requirements or reference to where eligibility requirements can be found in the policies and procedures manual.

ITEM 25. Amend paragraph **25.18(2)“g”** as follows:

g. Budget and financing provisions for the next year. The provisions shall address how ~~county~~, regional, state and other funding sources will be used to meet the service needs within the region.

ITEM 26. Amend paragraph **25.18(2)“h”** as follows:

h. Financial forecasting measures. A description of the financial forecasting measures used in the identification of service need and funding necessary for services and a financial statement of actual revenues and actual expenses by chart of account codes, ~~including levies by county.~~

ITEM 27. Amend rule 441—25.21(331), introductory paragraph, as follows:

441—25.21(331) Policies and procedures manual for the regional service system. The policies and procedures manual shall describe the policies and process developed to direct the management and administration of the regional service system. ~~The initial manual is due on April 1, 2014, and will remain in effect subject to amendment.~~

ITEM 28. Amend paragraph **25.21(1)“e”** as follows:

e. Quality management and improvement process. The quality management and improvement process shall at a minimum meet the requirements of the department’s outcome and performance measures process as outlined in Iowa Code sections ~~225C.4(1)“j”~~ 225C.4(1)“k” and 225C.6A.

ITEM 29. Amend subrule 25.21(2) as follows:

25.21(2) Approval. ~~The manual shall be submitted by April 1, 2014, as a part of the region’s management plan for the fiscal year beginning July 1, 2014. The manual A region’s policy and procedures manual shall be approved by the region’s governing board and is subject to approval by the director of human services. The director shall review all regional annual service and budget plans submitted by the dates specified. If the director finds the manual in compliance with these rules and state and federal laws, the director may approve the plan. A plan policy and procedures manuals. Manuals approved by the director for the fiscal year beginning July 1, 2014, shall remain in effect subject to amendment.~~

a. Criteria for acceptance. ~~The director shall determine a plan is acceptable when it contains all the required information, meets the criteria described in this division, and is in compliance with all applicable state and federal laws. The director may request additional information to determine whether or not the plan contains all the required information and meets criteria described in this division.~~

b. Notification.

~~(1) Except as specified in subparagraph 25.21(2)“b”(2), the director shall notify the region in writing of the decision on the plan by June 1, 2014. The decision shall specify that either:~~

~~1. The policies and procedures manual is approved as it was submitted, either with or without supplemental information already requested and received.~~

~~2. The policies and procedures manual will not be approved until revisions are made. The letter will specify the nature of the revisions requested and the time frames for their submission.~~

~~(2) Review of late submittals. The director may review manuals not submitted by April 1, 2014, after all manuals submitted by that date have been reviewed. The director will proceed with the late submittals in a timely manner.~~

ITEM 30. Amend rule 441—25.41(331) as follows:

441—25.41(331) Minimum data set. Each ~~county~~ region shall maintain data on all clients served through the MH/DD services fund.

HUMAN SERVICES DEPARTMENT[441](cont'd)

25.41(1) *Submission of data.* Each ~~county~~ region shall submit to ~~DHS~~ the department a copy of the data regarding each individual that the ~~county~~ region serves ~~through the central point of coordination process.~~

a. ~~DHS state payment program;~~ The state supplementary assistance program, mental health institutes, state resource centers, Medicaid program, and Medicaid managed care contractors shall provide the equivalent data in a compatible format on the same schedule as the required submission from the counties regions.

b. ~~DHS~~ The department shall maintain the data ~~in the data analysis unit~~ for research and analysis purposes only. Only summary data shall be reported to policymakers or the public.

25.41(2) *Data required.* The data to be submitted are as follows:

a. Basic ~~client~~ individual information including a unique identifier, name, address, and county of residence ~~and county of legal settlement.~~

b. The state I.D. number ~~for state payment cases~~ when applicable.

c. Demographic information including date of birth, sex, ethnicity, marital status, education, residential living arrangement, current employment status, monthly income, income sources, type of insurance, insurance carrier, veterans' status, guardianship status, legal status in the system, source of referral, ~~diagnosis in the current version of the DSM,~~ diagnosis code in the current version of the ICD, disability group (i.e., intellectual disability, developmental disability, ~~chronic mental illness,~~ mental illness, brain injury), ~~central point of coordination- (and county of residence number preceded by A-1), and central point of coordination (CPC) name.~~

d. Service information including the decision on services, date of decision, ~~date client terminated from CPC services~~ termination date and reason for termination, residence, approved service, service beginning dates, service ending dates, reason for terminating each service, approved units of services, unit rate for service, expenditure data, and provider data.

e. ~~Counties shall not be penalized in any fashion for failing to collect data elements in situations of crisis or in outreach efforts to identify or engage people in needed mental health services. For the purposes of this rule:~~

(1) ~~Situations of crisis include but are not limited to voluntary and involuntary hospitalizations, legal and transportation services associated with involuntary hospitalizations, emergency outpatient services, mobile crisis team services, jail diversion services, mental health services provided in a county jail, and other services for which the county is required to pay but does not have access to the client to collect the required information.~~

(2) ~~Outreach efforts to identify or engage people in needed mental health services include but are not limited to mental health advocate services; services for homeless persons, refugees, or other legal immigrants; services for state cases who do not have documentation with them and are unable to help the county locate appropriate records; consultation; education to raise public awareness; 12-step or other support groups for persons with dual disorders; and drop-in centers.~~

f. e. ~~Although all of the data in the minimum data set are important to provide support for program analysis, a county shall be penalized for noncompliance with this rule if the county does not provide 100 percent reporting of the data elements listed in this paragraph. Beginning with the data reported for state fiscal year 2008, less than 100 percent reporting for the following items shall be viewed as noncompliance unless the data are exempted by paragraph "e": Regions shall submit data according to the file layouts, format, and naming conventions prescribed by the department. Any changes to the data submission requirements will be made in consultation with the regional administrators.~~

(1) ~~Client identifiers:~~

1. ~~Lname3 (the first three letters of the client's last name).~~
2. ~~Last4SSN (the last four digits of the client's social security number).~~
3. ~~SEX (the client's sex).~~
4. ~~BDATE (the client's birth date).~~

(2) ~~CPC (central point of coordination).~~

(3) ~~Payment information:~~

1. ~~PYMTDATE (CoMIS payment date).~~

HUMAN SERVICES DEPARTMENT[441](cont'd)

- ~~2. FUND CODE (CoMIS fund code).~~
- ~~3. DG (CoMIS diagnosis).~~
- ~~4. COACODE (CoMIS chart of accounts code).~~
- ~~5. BEGDATE (CoMIS service beginning date).~~
- ~~6. ENDDATE (CoMIS service ending date).~~
- ~~7. UNITS (CoMIS units of service).~~
- ~~8. COPD (CoMIS county paid).~~
- ~~(4) ValidSSN (valid social security number indicator).~~
- ~~(5) IsPerson (IsPerson indicator).~~

~~g. f.~~ Although all of the data in the minimum data set are important to provide support for program analysis, a county shall be penalized for noncompliance with this rule if the county does not provide 90 percent reporting of the data elements listed in this paragraph beginning with the data reported for fiscal year 2008. Less than 90 percent reporting for the following items shall be viewed as noncompliance unless the data are exempted by paragraph “e”: Regions must submit their data for each fiscal year by December 1 of the following fiscal year.

~~(1) Application Date (application date)~~ When a region’s data is incomplete or is not compliant with the prescribed file layouts, format, or naming conventions the region will be notified by email.

~~(2) RESCO (residence county)~~ The region shall resubmit corrected files or provide an explanation for noncompliant data within 30 days of the date of the email notice.

~~(3) LEGCO (legal county)~~ If the region remains noncompliant after the 30-day time period, the department may take action as allowable under the performance-based contracts established pursuant to rule 441—25.23(331).

~~(4) Provider ID (vendor number).~~

~~h.~~ The department shall analyze the data received on or before December 1 each year by December 15 or by the next business day if December 15 falls on a weekend or holiday.

~~(1) When a county’s data submission does not meet the specifications in paragraph “f” or “g,” the department will notify the county by email.~~

~~(2) The county shall have 30 days from the date of the email notice to submit the missing data or to provide an explanation of why the data cannot be reported.~~

~~(3) If the county does not report the data or provide an adequate explanation within 30 days, the department shall find the county in noncompliance.~~

~~i.~~ The department shall post the aggregate reports received by December 1 on the department’s website within 90 days.

~~25.41(3) Method of data collection.~~ A county may choose to collect this information using the county management information system (CoMIS) that was designed by the department or may collect the information through some other means. If a county chooses to use another system, the county must be capable of supplying the information in the same format as CoMIS.

~~a.~~ Except as provided in subparagraph (3), each county shall submit the following files in Microsoft Excel format (version 97 to 2000) or comma-delimited text file (CSV) format using data from the associated CoMIS table or from the county’s chosen management information system:

Files to submit	Associated CoMIS Table
WarehouseClient.xls or WarehouseClient.csv	Client Data
WarehouseIncome.xls or WarehouseIncome.csv	Income Review
WarehousePayment.xls or WarehousePayment.csv	Payment
WarehouseProvider.xls or WarehouseProvider.csv	Provider
WarehouseProviderServices.xls or WarehouseProviderServices.csv	tblProviderServices
WarehouseService.xls or WarehouseService.csv	Service Authorizations

~~(1) Paragraphs “b” through “g” list the data required in each file and specify the structure or description for each data item to be reported.~~

HUMAN SERVICES DEPARTMENT[441](cont'd)

(2) The field names used in the report files must be exactly the same as indicated in the corresponding paragraph, including spaces, and must be entered in the first row for each sheet.

(3) The file labeled WarehouseService.xls or WarehouseService.csv or service authorization (described in paragraph “g” of this subrule) shall be removed from this requirement on June 30, 2011, if data from this file have not been used by that date.

b. File name: WarehouseClient.xls or WarehouseClient.csv.

Sheet name: Warehouse_Client_Transfer_Query.

Field Name	Data Type	Field Size	Format	Description
CPC	Number	3	0 decimal places	Central point of coordination number: county number preceded by a 1
RESCO	Number	3	0 decimal places	Residence county of client: 1-99 = County number 100 = State of Iowa 900 = Undetermined or in dispute
LESCO	Number	3	0 decimal places	Legal county of client: 1-99 = County number 100 = State of Iowa 900 = Undetermined or in dispute
Lname3	Text	3		The first 3 characters of the last name
Last4SSN	Text	4		The last 4 digits of the client's social security number. If that number is unknown, then use the last 4 digits of the CLIENT ID# field and mark column "ValidSSN" with the value "No."
BDATE	Date	10	mm/dd/yyyy	Date of client's birth
SEX	Text	1		Sex of client: M = Male F = Female
Last Update	Date	10	mm/dd/yyyy	Date of last update to client record
SID	Text	8	9999999a	State identification number of client, if applicable (format of a valid number is 7 digits plus 1 alphabetical character).
ADD1	Text	50		First address line
ADD2	Text	50		Second address line (if applicable)
CITY	Text	50		City address line
STATE	Text	2		State code
ZIP	Number	5	0 decimal places	5-digit ZIP code
ETHN	Number	1	0 decimal places	Ethnicity of client: 0 = Unknown 1 = White, not Hispanic 2 = African American, not Hispanic 3 = American Indian or Alaskan native 4 = Asian or Pacific Islander 5 = Hispanic 6 = Other (biracial; Sudanese; etc.)
MARITAL	Number	1	0 decimal places	Marital status of client: 1 = Single, never married 2 = Married (includes common-law marriage) 3 = Divorced 4 = Separated 5 = Widowed
EDUC	Number	2	0 decimal places	Education level of the client

HUMAN SERVICES DEPARTMENT[441](cont'd)

Field Name	Data Type	Field Size	Format	Description
RARG	Number	2	0 decimal places	Residential arrangement of client: 1 = Private residence/household 2 = State MHI 3 = State resource center 4 = Community supervised living 5 = Foster care or family life home 6 = Residential care facility 7 = RCF/MR 8 = RCF/PMI 9 = Intermediate care facility 10 = ICF/MR 11 = ICF/PMI 12 = Correctional facility 13 = Homeless shelter or street 14 = Other
LARG	Number	1	0 decimal places	Living arrangement of client: 1 = Lives alone 2 = Lives with relatives 3 = Lives with persons unrelated to client
INS	Number	1	0 decimal places	Health insurance owned by client: 1 = Client pays 3 = Medicaid 4 = Medicare 5 = Private third party 6 = Not insured 7 = Medically Needy
INSCAR	Text	50		First insurance company name, if applicable
INSCAR1	Text	50		Second insurance company name, if applicable
INSCAR2	Text	50		Third insurance company name, if applicable
VET	Text	1		Veteran status of client: Y = Yes N = No
CONSERVATOR	Number	1	0 decimal places	Conservator status of client: 1 = Self 2 = Other
GUARDIAN	Number	1	0 decimal places	Guardian status of client: 1 = Self 2 = Other
LEGSTAT	Number	1	0 decimal places	Legal status of client: 1 = Voluntary 2 = Involuntary, civil commitment 3 = Involuntary, criminal commitment
REFSO	Number	1	0 decimal places	Referral source of client: 1 = Self 2 = Family or friend 3 = Targeted case management 4 = Other case management 5 = Community corrections 6 = Social service agency other than case management 7 = Other
DSM (current version)	Text	50		DSM (current version) diagnosis code of client
ICD (current version)	Text	50		ICD (current version) diagnosis code (optional for county use; not tied to CoMIS entry)

HUMAN SERVICES DEPARTMENT[441](cont'd)

Field Name	Data Type	Field Size	Format	Description
DG	Number	2	0 decimal places	Disability group of client: 40 = Mental illness 41 = Chronic mental illness 42 = Mental retardation 43 = Other developmental disability 44 = Other categories
Application Date	Date	10	mm/dd/yyyy	Date of client's initial application
Outcome decision	Number	1	0 decimal places	Decision on client's application: 1 = Application accepted 2 = Application denied 3 = Decision pending
Decision date	Date	10	mm/dd/yyyy	Date decision was made on client's application
Denial reason	Text	2		Denial reason code: 00 = Not applicable 01 = Over income guidelines 1A = Over resource guidelines 02 = Does not meet county plan criteria 2A = Legal settlement in another county 2B = State case 3A = Brain injury 3B = Alzheimer's 3C = Substance abuse 3D = Other 04 = Does not meet service plan criteria 05 = Client desires to discontinue process 5A = Client fails to return requested information
Client exit date from CPC	Date	10	mm/dd/yyyy	Date client was terminated from CPC services
Exit reason	Number	1	0 decimal places	Reason client left the CPC system: 0 = Unknown 1 = Client voluntarily withdrew 2 = Client deceased 3 = Unable to locate consumer 4 = Ineligible due to reasons other than income 5 = Ineligible, over income guidelines 6 = Client moved out of state 7 = Client no longer needs service 8 = Client has legal settlement in another county
Review Date	Date	10	mm/dd/yyyy	Date of last application review
PhoneNumber	Text	50		Phone number of client
ValidSSN	Text	3	Generated for CoMIS users in the data extract only	Populate this field with YES if the client has a valid social security number. If the client does not have a valid social security number, populate this field with NO.
IsPerson	Text	3	Generated for CoMIS users in the data extract only	Populate this field with YES if the client is a person. If the client entry represents a nonperson such as administrative costs, populate this field with NO.

c. — File name: WarehouseIncome.xls or WarehouseIncome.csv.

Sheet name: Warehouse_Income_Transfer_Query.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Field Name	Data Type	Field Size	Format	Description
CPC	Number	3	0-decimal places	Central point of coordination number: county number preceded by a 1
RESCO	Number	3	0-decimal places	Residence county of client: 1-99 = County number 100 = State of Iowa 900 = Undetermined or in dispute
LEGO	Number	3	0-decimal places	Legal county of client: 1-99 = County number 100 = State of Iowa 900 = Undetermined or in dispute
Lname3	Text	3		The first 3 characters of the last name
Last4SSN	Text	4		The last 4 digits of the client's social security number. If that number is unknown, then use the last 4 digits of the CLIENT ID# field and mark column "ValidSSN" with the value "No."
BDATE	Date	10	mm/dd/yyyy	Date of client's birth
SEX	Text	1		Sex of client: M = Male F = Female
EMPL	Number	2	0-decimal places	Employment situation of client: 1 = Unemployed, available for work 2 = Unemployed, unavailable for work 3 = Employed full-time 4 = Employed part-time 5 = Retired 6 = Student 7 = Work activity employment 8 = Sheltered work employment 9 = Supported employment 10 = Vocational rehabilitation 11 = Seasonally employed 12 = In the armed forces 13 = Homemaker 14 = Other or not applicable 15 = Volunteer
House Hold Size	Number	2	0-decimal places	Number of people in client's household
INCSOUR	Number	2	0-decimal places	Primary income source of client: 1 = Family and friends 2 = Private relief agency 3 = Social security disability benefits 4 = Supplemental Security Income 5 = Social security benefits 6 = Pension 7 = Food assistance 8 = Veterans benefits 9 = Workers compensation 10 = General assistance 11 = Family investment program (FIP) 12 = Wages
Public Assistance Payments	Currency	14	2-decimal places	Monthly dollar amount for this income source (where applicable)
Social Security	Currency	14	2-decimal places	Monthly dollar amount for this income source (where applicable)
Social Security Disability	Currency	14	2-decimal places	Monthly dollar amount for this income source (where applicable)
SSI	Currency	14	2-decimal places	Monthly dollar amount for this income source (where applicable)
VA Benefits	Currency	14	2-decimal places	Monthly dollar amount for this income source (where applicable)
R/R Pension	Currency	14	2-decimal places	Monthly dollar amount for this income source (where applicable)

HUMAN SERVICES DEPARTMENT[441](cont'd)

Field Name	Data Type	Field Size	Format	Description
Child Support	Currency	14	2 decimal places	Monthly dollar amount for this income source (where applicable)
Employment Wages	Currency	14	2 decimal places	Monthly dollar amount for this income source (where applicable)
Dividend Interest	Currency	14	2 decimal places	Monthly dollar amount for this income source (where applicable)
Other Income	Currency	14	2 decimal places	Monthly dollar amount for this income source (where applicable)
Description 1	Text	50		Description of "Other Income"
Cash on hand	Currency	14	2 decimal places	Dollar amount for this resource type (where applicable)
Checking	Currency	14	2 decimal places	Dollar amount for this resource type (where applicable)
Savings	Currency	14	2 decimal places	Dollar amount for this resource type (where applicable)
Stocks/Bonds	Currency	14	2 decimal places	Dollar amount for this resource type (where applicable)
Time Certificates	Currency	14	2 decimal places	Dollar amount for this resource type (where applicable)
Trust Funds	Currency	14	2 decimal places	Dollar amount for this resource type (where applicable)
Other Resources	Currency	14	2 decimal places	Dollar amount for this resource type (where applicable)
Description 2	Text	50		Description of "Other Resources" (where applicable)
Other Resources 2	Currency	14	2 decimal places	Dollar amount for this resource type (where applicable)
Description 3	Text	50		Description of "Other Resources 2"
Date reviewed	Date	10	mm/dd/yyyy	Date income was last reviewed (where applicable)

d. ~~File name: WarehousePayment.xls or WarehousePayment.csv. Sheet name:~~
Warehouse_Payment_Transfer_Quer.

Field Name	Data Type	Field Size	Format	Description
CPC	Number	3	0 decimal places	Central point of coordination number: county number preceded by a 1
RESCO	Number	3	0 decimal places	Residence county of client: 1-99 = County number 100 = State of Iowa 900 = Undetermined or in dispute
LEGCO	Number	3	0 decimal places	Legal county of client: 1-99 = County number 100 = State of Iowa 900 = Undetermined or in dispute
Lname3	Text	3		The first 3 characters of the last name
Last4SSN	Text	4		The last 4 digits of the client's social security number. If that number is unknown, use the last 4 digits of the CLIENT ID# field and mark column "ValidSSN" with the value "No."
BDATE	Date	10	mm/dd/yyyy	Date of client's birth
SEX	Text	1		Sex of client: M = Male F = Female
PYMTDATE	Date	10	mm/dd/yyyy	Date county approves or makes payment
VENNAME	Text	50		Vendor or provider paid

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Field Name	Data Type	Field Size	Format	Description
COCODE	Number	3	0 decimal places	County where service was provided
FUND CODE	Text	10		Fund code for payment
DG	Number	2	0 decimal places	Disability group code for payment: 40 = Mental illness 41 = Chronic mental illness 42 = Mental retardation 43 = Other developmental disability 44 = Other categories
COACODE	Number	5	0 decimal places	Chart of accounts code for payment
BEGDATE	Date	10	mm/dd/yyyy	Beginning date of payment period
ENDDATE	Date	10	mm/dd/yyyy	Ending date of payment period
UNITS	Number	4	0 decimal places	Number of service units for payment
COPD	Currency	14	2 decimal places	Amount paid by the county
RECEIVED	Currency	14	2 decimal places	Amount received for reimbursement (if applicable)

~~e. File name: WarehouseProvider.xls or WarehouseProvider.csv. Sheet name: Warehouse_Provider_Transfer_Queue. (If the provider has more than one office location, enter information for the headquarters office.)~~

Field Name	Data Type	Field Size	Format	Description
Provider ID	Text	50		Provider identifier (tax ID code)
Provider Name	Text	50		Provider name
Provider Address1	Text	50		Provider address line 1
Provider Address2	Text	50		Provider address line 2 (if applicable)
City	Text	50		Provider city
State	Text	2		Provider state code
Zip	Text	10		Provider ZIP code
COCODE	Number	3	0 decimal places	Provider county code
PhoneNumber	Text	50		Provider phone number
Date of Last Update	Date	10	mm/dd/yyyy	Provider last updated date

~~f. File name: WarehouseProviderServices.xls or WarehouseProviderServices.csv. Sheet name: Warehouse_Provider_Services_Tra.~~

Field Name	Data Type	Field Size	Format	Description
Provider ID	Text	50		Provider identifier (tax ID code)
Provider Name	Text	50		Provider name
FUND CODE	Text	10		Fund code for payment
DG	Number	2	0 decimal places	Disability group code for payment: 40 = Mental illness 41 = Chronic mental illness 42 = Mental retardation 43 = Other developmental disability 44 = Other categories
COACODE	Number	5	0 decimal places	Chart of accounts code for service
RATE	Currency	14	2 decimal places	Payment rate

~~g. File name: WarehouseService.xls or WarehouseService.csv. Sheet name: Warehouse_Service_Transfer_Queue.~~

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Field Name	Data Type	Field Size	Format	Description
CPC	Number	3	0 decimal places	Central point of coordination number: county number preceded by a 1
RESCO	Number	3	0 decimal places	Residence county of client: 1-99 = County number 100 = State of Iowa 900 = Undetermined or in dispute
LESCO	Number	3	0 decimal places	Legal county of client: 1-99 = County number 100 = State of Iowa 200 = Iowa nonresident 900 = Undetermined or in dispute
Lname3	Text	3		The first 3 characters of the last name
Last4SSN	Text	4		The last 4 digits of the client's social security number. If that number is unknown, then use the last 4 digits of the CLIENT ID# field and mark column "ValidSSN" with the value "No."
BDATE	Date	10	mm/dd/yyyy	Date of client's birth
SEX	Text	1		Sex of client: M = Male F = Female
FUND CODE	Text	10		Fund code for service
DG	Number	2	0 decimal places	Disability group code for payment: 40 = Mental illness 41 = Chronic mental illness 42 = Mental retardation 43 = Other developmental disability 44 = Other category
COACODE	Number	5	0 decimal places	Chart of accounts code for service
Begin Date	Date	10	mm/dd/yyyy	Beginning date of service period
End Date	Date	10	mm/dd/yyyy	Ending date of service period
Ending Reason	Number	1	0 decimal places	Reason for terminating approval of service: 0 = NA 1 = Voluntary withdrawal 2 = Client no longer needs service 3 = Ineligible, over income guidelines 4 = Ineligible due to other than income 5 = Client moved out of state 6 = Client deceased 7 = Reauthorization
Units	Number	4	0 decimal places	Average number of service units approved monthly
Rate	Currency	14	2 decimal places	Dollar amount per service unit
Review Date	Date	10	mm/dd/yyyy	Date for next service review

This rule is intended to implement Iowa Code sections 331.438 and 331.439.

ITEM 31. Amend subrule 25.54(4) as follows:

25.54(4) The advocate shall file with the court Iowa Ct. R. 12.36—Form 30, quarterly reports in a form prescribed by the court as the advocate feels necessary or as required for each individual assigned to the advocate. ~~The report shall state the actions taken with the individual and amount of time spent on behalf of the individual.~~

ARC 6410C**HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action****Proposing rule making related to five-year rules review
and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 66, “Emergency Food Assistance Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 234.6.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 234.6.

Purpose and Summary

Chapter 66 is proposed to be amended as part of the Department’s five-year rules review. As part of the review, the name of the Division of Financial, Health, and Work Supports has been updated throughout the rules to the Division of Financial, Food, and Work Supports. Additional information has been provided on The Emergency Food Assistance Program (TEFAP) as authorized by the Emergency Food Assistance Act of 1983 and amended through Public Law 107-249, October 23, 2002. The chapter is being updated to provide additional guidance to consumers on how eligibility is determined for TEFAP and how claims are established against TEFAP entities.

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 441—1.8(17A,217).

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 Department no later than 4:30 p.m. on August 2, 2022. Comments should be directed to:

Nancy Freudenberg
Department of Human Services
Hoover State Office Building, Fifth Floor
1305 East Walnut Street
Des Moines, Iowa 50319-0114
Email: appeals@dhs.state.ia.us

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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 **441—Chapter 66**, preamble, as follows:

PREAMBLE

This chapter sets forth the rules governing ~~the emergency food assistance program~~ The Emergency Food Assistance Program (TEFAP) in Iowa. The Iowa department of human services has been designated by the governor as the agency responsible for administration of the emergency food assistance program. The department is responsible for receiving, storing, distributing, and accounting for foods donated through the U.S. Department of Agriculture (USDA). The department contracts with food banks that provide services in the state for TEFAP.

For information about ~~the emergency food assistance program~~ TEFAP and other food distribution programs, contact the Iowa Department of Human Services, Division of Financial, ~~Health Food~~, and Work Supports, Food Distribution Program Manager, 1305 East Walnut Street, Des Moines, Iowa 50319-0114; telephone ~~(515)281-5410~~ (515)443-2736. Clarifications of federal policy may be obtained by referencing 7 CFR Part 251 and 7 CFR Part 250, when applicable.

ITEM 2. Amend rule **441—66.1(234)**, definitions of “Eligible recipient agency” and “Food distribution program,” as follows:

“*Eligible recipient agency*” means a charitable institution that has entered into a contract with the department for the receipt of commodities or administrative funds or has entered into an agreement with another eligible recipient agency that has signed such a contract with the department. Eligible recipient agencies may include food banks, food pantries, soup kitchens, hunger relief centers, hospitals, retirement homes, Nutrition Services Incentive Programs that operate congregate meals sites or provide home-delivered meals (to the extent that they serve predominately needy persons), summer camps for children or child nutrition programs providing food service, and disaster relief programs. An eligible recipient agency shall meet federal requirements as described at 7 CFR 251.3(d) and 7 CFR 251.5(a), as ~~published on January 1, 2005~~ amended to May 2, 2022.

“*Food distribution program*” means the office in the department’s division of financial, ~~health food~~, and work supports that is responsible for administering the FNS food distribution programs.

ITEM 3. Amend rule **441—66.2(234)** as follows:

441—66.2(234) Application to be a TEFAP contractor or subcontractor. An organization that seeks to be a TEFAP contractor shall submit a written request to the Iowa Department of Human Services, Division of Financial, ~~Health Food~~, and Work Supports, Food Distribution Program Manager, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. The written request shall contain sufficient information about the applicant to enable the department to determine whether the applicant qualifies to be an eligible recipient agency as defined at 441—66.1(234). An organization that seeks to be a TEFAP subcontractor shall submit a written request to the food bank contracted with the department to administer TEFAP in the organization’s service area. The written request shall contain sufficient information about the applicant

HUMAN SERVICES DEPARTMENT[441](cont'd)

to enable the food bank to determine whether the applicant qualifies to be an eligible recipient agency as defined at 441—66.1(234).

66.2(1) *Determination of eligibility.* Within ten days of receipt of an applicant's written request to be a TEFAP contractor, the program manager shall notify the applicant in writing ~~of that the department's decision~~ department has received the applicant's request. The department shall approve an applicant's request to be a TEFAP contractor only when ~~both of~~ the following are true:

- a. The applicant qualifies to be an eligible recipient agency as defined at 441—66.1(234).
- b. Priority is given to current food banks that service contiguous counties and food banks that are a Feeding America partner.

~~b. c.~~ A contract with the applicant, in addition to those eligible recipient agencies currently under contract with the department, will allow the department to distribute commodities in Iowa to needy individuals or households in the most cost-effective and comprehensive manner possible.

66.2(2) *Administrative review of denial of eligibility.*

a. When an applicant's request to be a TEFAP contractor is denied by the program manager, the applicant may request an administrative review by sending a letter requesting review of the denial to the administrator of the division of financial, ~~health~~ food, and work supports. The applicant shall send the letter within five days of receipt of the letter of denial.

~~a. (1)~~ When more information is needed, the administrator shall request the information within five days of receipt of the request for review.

~~b. (2)~~ The administrator shall review the denial and shall issue a decision within ten days of the request for review or of the receipt of additional information, whichever is later.

~~c. (3)~~ When the division administrator reverses the denial, the applicant shall be given the opportunity to negotiate a TEFAP contract.

b. When an applicant's request to be a TEFAP subcontractor is denied by the food bank, the applicant may request an administrative review by sending a letter requesting review of the denial to the food distribution program manager. The applicant shall send the letter within five days of receipt of the letter of denial.

(1) When more information is needed, the program manager shall request the information within five days of receipt of the request for review.

(2) The program manager shall review the denial and shall issue a decision within ten days of the request for review or of the receipt of additional information, whichever is later.

(3) When the program manager reverses the denial, the applicant shall be given the opportunity to negotiate a TEFAP subcontract with the applicable food bank.

ITEM 4. Amend rule 441—66.4(234) as follows:

441—66.4(234) Distribution. The department is the agency responsible for food distribution in Iowa under TEFAP. TEFAP commodities and funds are allocated and delivered to Iowa by the USDA according to the USDA formula as defined at 7 CFR 251.3(h), as ~~published on January 1, 2005~~ amended to May 2, 2022.

66.4(1) No change.

66.4(2) *Allocation to contractors.* The department shall make commodities available for distribution to contractors in accordance with the provisions of 7 CFR Part 251, as ~~published on January 1, 2005~~ amended to May 2, 2022, and of 7 CFR Part 250, as ~~published on January 1, 2005~~ amended to May 2, 2022, when the provisions of Part 250 are not inconsistent with 7 CFR Part 251.

a. No change.

b. *Basis for allocation.* The allocation of commodities to each contractor is based on the percentage of ~~the Iowa residents with income at or below 185 percent of the federal poverty level~~ who live in the area that each contractor serves based on the formula identified in 7 CFR 251.3(h), as amended to May 2, 2022, for entitlement. Bonus items will be allocated using this same formula, unless agreed upon by the eligible recipient agencies with direct contracts with the department.

66.4(3) No change.

HUMAN SERVICES DEPARTMENT[441](cont'd)

66.4(4) *Special provisions for situations of disaster and distress.* The department reserves the right to distribute commodities in situations of disaster, emergency, or distress to any affected area in Iowa. ~~In these situations, the department shall use commodities in the central warehouse first and shall then, if necessary, use commodities from the inventory of each contractor.~~ Federal regulations at 7 CFR 250.43 and 7 CFR 250.44, as ~~published on January 1, 2005~~ amended to May 2, 2022, shall apply in these situations.

ITEM 5. Amend paragraph **66.5(3)“c”** as follows:

c. Income exclusions. When calculating total household income for this program, all income shall be excluded that is specifically excluded for food assistance by federal statute, especially those sources listed in federal regulations at 7 CFR 273.9(c)(10) as ~~published on January 1, 2005~~ amended to May 2, 2022.

ITEM 6. Amend rule 441—66.6(234), introductory paragraph, as follows:

441—66.6(234) Reimbursement for allowable costs. To the extent that funds are available for payment, the department shall pay allowable costs to contractors as reimbursement for expenses attributable to the program. TEFAP payments by the department are subject to federal regulations at 7 CFR Part 251, as ~~published on January 1, 2005~~ amended to May 2, 2022, especially 7 CFR 251.8(e).

ITEM 7. Amend subrule 66.6(2) as follows:

66.6(2) *Reimbursement request.* Contractors must complete ~~Form 470-0298, Federal Emergency Assistance Food Distribution Report/Reimbursement Request,~~ the form provided by the department in order to file for reimbursement.

ITEM 8. Amend subrule 66.6(3) as follows:

66.6(3) *Rate of reimbursement.* The department shall reimburse each contractor at ~~a per gross pound rate to be determined by the department and included in the agreement with the contractor~~ the same rate as commodity allocations are determined pursuant to 7 CFR 251.3(h) as amended to May 2, 2022. In the event the department cannot maintain this level of reimbursement throughout the term of the contract, the reimbursement shall be adjusted based on the available funds remaining from the USDA grant.

ITEM 9. Amend subrule 66.7(3) as follows:

66.7(3) *Determination of fault and claim procedures.* The program manager shall investigate the commodity loss and determine who is at fault as described in FNS Instruction 410-1, Claims for Losses of Donated Foods and Related Administrative Losses — Procedures for the State Distributing Agency, published on December 29, 2010.

a. ~~Losses exceeding \$100~~ Value of loss does not exceed \$500. The department shall not initiate a claim action against an entity that has been determined to be at fault if the value of the accumulated commodity loss ~~exceeds \$100~~ does not exceed \$500. EXCEPTION: If there is evidence of violation of a federal or state statute, procedures in subrule 66.7(7) shall apply.

b. ~~Losses exceeding \$2,500~~ \$500. When the department believes that a claim exists against an entity and the value of the lost commodities exceeds ~~\$2,500~~ \$500, the department shall immediately refer the claim determination to the FNS regional office. When the department receives notice from FNS that a claim exists, the department shall immediately initiate the claim procedure.

c. and d. No change.

e. Late charge. Interest shall be assessed against an entity beginning on the thirty-first day following the date of the first demand letter, unless an extension has been granted. Interest shall be assessed at the rate determined by the U.S. Treasury Department at the beginning of each fiscal quarter.

ITEM 10. Amend subrule 66.7(5) as follows:

66.7(5) *Administrative review of claim.* An entity may request an administrative review of a claim by sending a letter requesting review of the claim and a copy of a demand letter to the administrator of the division of financial, ~~health~~ food, and work supports within 20 days of receipt of its first demand letter.

a. and b. No change.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 11. Amend rule 441—66.8(234), introductory paragraph, as follows:

441—66.8(234) State monitoring. The department shall annually review at least 25 percent of the TEFAP contractors and 10 percent of other eligible recipient agencies receiving commodities as subcontractors or 20 agencies, whichever is fewer. The department ~~may~~ shall not contract with another entity to carry out these activities.

ITEM 12. Adopt the following new paragraph **66.8(1)“h”**:

h. Civil rights.

ARC 6409C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

**Proposing rule making related to five-year rules review
and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 89, “Debts Due from Transfers of Assets,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 249A.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 249F.

Purpose and Summary

Chapter 89 was reviewed as part of the Department’s five-year rules review. The proposed update reflects the operative effective date for transfers that took place between July 1, 1993, and December 31, 2018. This portion of the program was suspended effective January 1, 2019, and there have not been any referrals to recover resources from anyone who received the transferred resources since then. The proposed amendment to the chapter’s implementation sentence removes the Iowa Acts reference because the Act has been codified.

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 441—1.8(17A,217).

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 Department no later than 4:30 p.m. on August 2, 2022. Comments should be directed to:

HUMAN SERVICES DEPARTMENT[441](cont'd)

Nancy Freudenberg
Department of Human Services
Hoover State Office Building, Fifth Floor
1305 East Walnut Street
Des Moines, Iowa 50319-0114
Email: appeals@dhs.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 paragraph **89.2(1)“a”** as follows:

a. The transfer is made while the transferor is receiving medical assistance or within five years prior to application for medical assistance and ~~on or after~~ between July 1, 1993, and December 31, 2018.

ITEM 2. Amend **441—Chapter 89**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 249F ~~as amended by 2000 Iowa Acts, chapter 1060.~~

ARC 6411C**HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action****Proposing rule making related to Medicare subsidy application procedures
and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 91, “Medicare Drug Subsidy,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 249A.4 and 17A.7.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 249A and section 17A.7.

Purpose and Summary

Public Law 108-173, the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, created a prescription drug benefit for Medicare beneficiaries (Medicare Part D) and a subsidy to reduce or eliminate costs associated with the Medicare drug benefit for persons with limited income and resources. Both the federal Social Security Administration and the state Medicaid agency are to

HUMAN SERVICES DEPARTMENT[441](cont'd)

accept and adjudicate subsidy applications. Chapter 91 implements the procedures for the Department to process subsidy applications that are received by the Department.

This proposed rule making removes forms that have become obsolete, updates the rules, and provides correct rule references as part of the Department's five-year rule review process.

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 441—1.8(17A,217).

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 Department no later than 4:30 p.m. on August 2, 2022. Comments should be directed to:

Nancy Freudenberg
Department of Human Services
Hoover State Office Building, Fifth Floor
1305 East Walnut Street
Des Moines, Iowa 50319-0114
Email: appeals@dhs.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 rule **441—91.1(249A)**, definitions of “Application,” “Authorized representative” and “Responsible person,” as follows:

“*Application*” or “*Medicare drug subsidy application*” means the federal Social Security Administration’s Form SSA-1020B-OCR-SM, Application for Help with Medicare Prescription Drug Plan Costs, ~~accompanied by the department’s Form 470-4159, Authorization for Department to Process.~~

“*Authorized representative*” means a person representing an applicant or recipient as described in ~~441—paragraph 76.1(7)“b.”~~ 441—subrule 76.9(2).

HUMAN SERVICES DEPARTMENT[441](cont'd)

“Responsible person” means a person acting on an applicant’s or recipient’s behalf as described at 441—~~paragraph 76.1(7) “a.”~~ 441—subrule 76.9(1).

ITEM 2. Amend paragraph **91.2(2)“a”** as follows:

a. An identifiable application is an application that contains:

(1) The legible name and address of the applicant; and

(2) The signature of the applicant, a responsible person, or an authorized representative on ~~both Form SSA-1020B-OCR-SM, Application for Help with Medicare Prescription Drug Plan Costs, and Form 470-4159, Authorization for Department to Process.~~

ITEM 3. Amend paragraph **91.3(2)“a”** as follows:

a. The applicant or recipient shall have ~~five~~ ten working days to supply the information or verification requested by the department. The local office may extend the deadline for a reasonable period when the applicant or recipient is making every effort to secure the required information or verification from a third party but has been unable to do so.

ITEM 4. Amend subrule 91.6(2) as follows:

91.6(2) *Timely report.* A report shall be considered timely when received in the local office within ten days from the date the change is known to a recipient ~~and within five days from the date the change is known to an~~ or applicant.

ITEM 5. Amend subrule 91.7(1) as follows:

91.7(1) *Application requested.* When requested to do so by the department, the recipient shall complete the Medicare drug subsidy application as part of the reinvestigation process. The application shall be completed within ~~five~~ ten working days from the date a written request is issued. Failure to complete the application shall be a basis for cancellation or reduction of the subsidy.

ITEM 6. Amend subrule 91.7(2), introductory paragraph, as follows:

91.7(2) *Additional information requested.* The recipient shall supply additional information needed to establish eligibility or level of subsidy within ~~five~~ ten working days from the date a written request is issued.

ARC 6406C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to child care center staff requirements and providing an opportunity for public comment

The Human Services Department hereby proposes to amend Chapter 109, “Child Care Centers,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 237A.12.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 237A.5.

Purpose and Summary

This proposed rule making allows an increased number of children to be served per staff person in the two-year-old and three-year-old age categories in licensed child care centers. The proposed amendments modify requirements when combining age groups and also allow a staff person under the age of 18 to provide care to school-aged children without being under the direct care of an adult. Clarification is

HUMAN SERVICES DEPARTMENT[441](cont'd)

added that a person under the age of 18 shall not be the sole provider on the premises of a child care facility or transport children.

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 441—1.8(17A,217).

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 Department no later than 4:30 p.m. on August 2, 2022. Comments should be directed to:

Nancy Freudenberg
Department of Human Services
Hoover State Office Building, Fifth Floor
1305 East Walnut Street
Des Moines, Iowa 50319-0114
Email: appeals@dhs.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 subrule 109.8(1) as follows:

109.8(1) Staff requirements. Persons counted as part of the staff ratio shall meet the following requirements:

- a. Be at least 16 years of age. ~~If less than 18 years of age, the staff shall be under the direct supervision of an adult. However, a staff person under the age of 18 may not be the sole provider on the premises of a child care facility.~~
- b. Be involved with children in programming activities.
- c. At least one staff person on duty in the center ~~and outdoor play area~~ when children are present and present on field trips shall be over the age of 18 ~~and hold current certification in first aid and cardiopulmonary resuscitation (CPR) as required in rule 441—109.7(237A).~~

HUMAN SERVICES DEPARTMENT[441](cont'd)

- d. Staff persons under the age of 18 shall not provide transportation to children in care.
e. If staff persons under the age of 18 are providing child care services without an adult, they shall only provide care to school-aged children.

ITEM 2. Amend subrule 109.8(2) as follows:

109.8(2) Staff ratio. The staff-to-child ratio shall be as follows:

Age of children	Minimum ratio of staff to children
Two weeks to two years	One to every four children
Two years	One to every six <u>seven</u> children
Three years	One to every eight <u>ten</u> children
Four years	One to every twelve children
Five years to ten years	One to every fifteen children
Ten years and over	One to every twenty children

a. Combinations of age groupings for children four years of age and older may be allowed and may have staff ratio determined on the age of the majority of the children in the group. If children three years of age and under are included in the combined age group, the staff ratio for children aged three and under shall be maintained for these children. Preschools shall have staff ratios determined on the age of the majority of the children, including children who are three years of age.

b. Combinations of age groupings for children between three years of age and five years of age may be allowed with a ratio of one staff member to every 12 children.

b. c. If a child between the ages of 18 and 24 months is placed outside the infant area, as defined at subrule 109.11(2), Children between 18 months and three years of age may be combined, if appropriate to the developmental needs of the child. If a child under two years is in a combined age group, the staff ratio of 1 one to 4 seven shall be maintained as would otherwise be required for the group until the child reaches the age of two. Otherwise, staff ratio may be determined by the age of the majority of the children in the group.

e. d. Every child-occupied program room shall have adult supervision present in the room. Brief absences of a staff member may be allowed for no more than five minutes when another staff person is present.

d. e. During nap time, at least one staff shall be present in every room where children are resting. Staff ratio requirements may be reduced to one staff per room where children are resting for a period of time not to exceed one hour provided and staff ratio coverage can be maintained in the center. The staff ratio shall always be maintained in the infant area for children under two years of age.

e. The minimum staff ratio shall be maintained at mealtimes and for any outdoor activities at the center.

f. When ~~seven or more~~ than eight children ~~over the age of three~~ are present on the licensed premises or are being transported in one vehicle, at least two adult staff shall be present. Only one adult is required when a center is transporting children in a center-owned vehicle with parent authorization for the sole purpose of transporting children to and from school. When a center contracts with another entity to provide transportation other than for the purpose of transporting school-age children to or from school, at least one adult staff in addition to the driver shall be present if at least ~~seven~~ eight children provided care by the center are transported.

g. Any child care center-sponsored program activity involving five or more children conducted away from the licensed facility shall provide a minimum of one additional staff over the required staff ratio for the protection of the children.

h. For a period of two hours or less at the beginning ~~or~~ and end of the center's hours of operation, one staff may care for ~~six~~ seven or fewer children, provided no more than ~~two~~ four of the children are under the age of two years and there are no more than ~~six~~ seven children in the center.

HUMAN SERVICES DEPARTMENT[441](cont'd)

i. For centers or preschools serving school-age children, the ratio for school-age children may be exceeded for a period of no more than four hours during a day when school classes start late or are dismissed early or canceled due to inclement weather or structural damage provided the children are already enrolled at the center and the center does not exceed the licensed capacity.

ITEM 3. Amend subrule 109.11(2) as follows:

109.11(2) *Infants' area.* An area shall be provided properly and safely equipped for the use of infants and free from the intrusion of children two years of age and older. ~~Children over 18 months of age may be grouped outside this area if appropriate to the developmental needs of the child.~~ Upon the recommendation of a child's physician or the area education agency serving the child, a child who is two years of age or older with a disability that results in significant developmental delays in physical and cognitive functioning who does not pose a threat to the safety of the infants may, if appropriate and for a limited time approved by the department, remain in the infant area.

ARC 6412C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

Proposing rule making related to five-year rules review and providing an opportunity for public comment

The Inspections and Appeals Department (Department) hereby proposes to amend Chapter 22, "Health Care Facility Audits," and Chapter 72, "Economic Fraud Control Bureau," to rescind Chapter 75, "Divestiture Unit," and to amend Chapter 90, "Public Assistance Debt Recovery Unit," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 10A.104.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 10A.104.

Purpose and Summary

The Department completed a comprehensive review of Chapters 22, 75, and 90 in accordance with the requirements in Iowa Code section 17A.7(2). This proposed rule making updates terminology used in Chapters 22 and 90, clarifies current processes in Chapter 90, and eliminates the Divestiture Unit set forth in Chapter 75.

Chapter 75 sets forth the process by which the Department receives referrals from the Department of Human Services to establish a medical assistance debt. The Department ceased this activity in 2019 upon the cessation of new program referrals communicated by the Department of Human Services. The Department continues related debt recovery work through its Public Assistance Debt Recovery Unit. As a result, Chapter 75 of the Department's rules is being rescinded. This rule making also eliminates other references to the divestiture unit and updates terminology in Chapter 72 to be consistent with Chapter 90.

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.

INSPECTIONS AND APPEALS DEPARTMENT[481](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 Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

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 Department no later than 4:30 p.m. on August 2, 2022. Comments should be directed to:

Ashleigh Hackel
Iowa Department of Inspections and Appeals
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: ashleigh.hackel@dia.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 subrule 22.2(1) as follows:

22.2(1) Information may be added to an audit file by the subject of the audit when the subject notifies the Audits ~~Division~~ Unit, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319.

ITEM 2. Amend rule **481—72.1(10A)**, definitions of “EBT,” “EBT trafficking or misuse” and “Public assistance,” as follows:

“EBT” or “*electronic benefit transfer*” means the electronic process that allows a client to authorize transfer of the client’s benefits from a financial account to a retailer to pay for eligible items received. Clients are issued an EBT card similar to a bank ATM or debit card to receive and use their ~~food assistance~~ supplemental nutrition assistance program (SNAP) benefits.

“EBT trafficking or misuse” means the use of ~~food assistance~~ SNAP benefits for something other than their intended use.

“Public assistance” means child care assistance, family investment program, ~~food assistance~~ SNAP, medical assistance, state supplementary assistance, refugee cash assistance, or any other state or federal assistance program.

ITEM 3. Amend rule 481—72.2(10A) as follows:

481—72.2(10A) Economic fraud control bureau (EFCB). ~~The EFCB is comprised of two units, the program integrity/EBT unit and the divestiture unit. The functions of each unit are described in~~

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

~~481—paragraph 1.4(1)“e.”~~ Generally, the EFCB conducts investigations of public assistance fraud in order to maintain integrity and accountability in the administration of public assistance benefits. ~~Divestiture unit rules are found in 481—Chapter 75.~~

ITEM 4. Rescind and reserve ~~481—Chapter 75.~~

ITEM 5. Amend rule ~~481—90.1(10A)~~, definitions of “Allotment reduction” and “Public assistance,” as follows:

“Allotment reduction” means an amount withheld from a financial or ~~food assistance supplemental nutrition assistance program (SNAP)~~ benefit. More specifically, “grant reduction” refers to the family investment program (FIP) and to refugee cash assistance (RCA), and “benefit reduction” refers to ~~the food assistance (FA) program SNAP.~~

“Public assistance” means any program that DHS administers that confers a financial, medical, or ~~food assistance SNAP~~ benefit.

ITEM 6. Rescind the definition of “FA” in rule ~~481—90.1(10A)~~.

ITEM 7. Adopt the following **new** definition of “SNAP” in rule ~~481—90.1(10A)~~:

“SNAP” means the supplemental nutrition assistance program and refers to the benefits provided by the federal program administered through 7 CFR Parts 270 through 283 as set forth in rule 441—65.1(234).

ITEM 8. Amend rule 481—90.2(10A) as follows:

481—90.2(10A) Recovery process. The recovery process begins when data is successfully entered on the ~~DHS designated~~ overpayment recovery system and a notice of debt is issued to the debtor. The data specifies which public assistance program(s) is owed a debt.

ITEM 9. Rescind and reserve rule ~~481—90.4(10A)~~.

ITEM 10. Amend rule 481—90.5(10A) as follows:

481—90.5(10A) Debt repayment. A notice of debt or Form 470-0495, Agreement to Pay a Debt, is used to initiate payments of a debt. The minimum rate of payment is determined by each program (~~unless unless set by a court order~~) and is order or otherwise negotiated by ~~the debtor and recovery unit~~ DHS. All recoveries are transmitted to the DHS cashier. Payments are made directly ~~in~~ by cash, check, or money order or through an online payment portal by the debtor except as otherwise provided in this rule. The amount of allotment reduction for a FIP overpayment caused by an agency error shall be different from the amount of allotment reduction for a client error, as determined by DHS.

90.5(1) Active cases—PROMISE JOBS program. For payment reduction for the PROMISE JOBS program, the debtor must provide written permission to effectuate a FIP reduction.

90.5(2) Active cases—FIP, RCA, ~~FA~~ SNAP. Allotment reduction shall be used, except that cash payment pursuant to a repayment agreement may be used when the repayment amount exceeds the amount that may be collected by allotment reduction. ~~For the food assistance program SNAP,~~ debt repayment may also be made in accordance with subrule 90.5(3).

90.5(3) ~~Food assistance program SNAP~~ with electronic benefit balances. ~~Food assistance SNAP~~ payments may be made by returning electronic benefits to pay the debt.

ITEM 11. Amend subrule 90.6(2) as follows:

90.6(2) For ~~food assistance~~ SNAP debts. In addition to the above actions, federal offsets (taxes, federal payments) may be used for the collection of ~~food assistance~~ SNAP debts in accordance with rule 441—11.5(234).

ARC 6402C**INSURANCE DIVISION[191]****Notice of Intended Action****Proposing rule making related to travel insurance
and providing an opportunity for public comment**

The Insurance Division hereby proposes to amend Chapter 10, “Insurance Producer Licenses and Limited Licenses,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 515K.10 as enacted by 2022 Iowa Acts, House File 2540, section 10.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2022 Iowa Acts, House File 2540.

Purpose and Summary

The proposed amendments update Chapter 10 to reflect changes made in 2022 Iowa Acts, House File 2540, regarding travel insurance.

Fiscal Impact

The Division is unable to determine how many new licensees, and resulting licensing fees, this rule making may result in.

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 Division for a waiver of the discretionary provisions, if any, pursuant to 191—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 Division no later than 12 noon on August 3, 2022. Comments should be directed to:

Angela Burke Boston
Iowa Insurance Division
1963 Bell Avenue, Suite 100
Des Moines, Iowa 50315
Phone: 515.654.6543
Email: angela.burke.boston@iid.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:

INSURANCE DIVISION[191](cont'd)

August 3, 2022
9 a.m.

Via conference call

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.

A conference call number will be available prior to the hearing on the Division's web page at iid.iowa.gov/hearings. Persons wishing to attend the hearing may also contact Angela Burke Boston for hearing information. Persons who wish to make oral comments at the public hearing must submit a request to Angela Burke Boston prior to the public hearing to facilitate an orderly hearing. Persons will 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 impairments, should contact Angela Burke Boston and advise of specific needs.

The public hearing will be canceled without further notice if no public hearing is requested by 12 noon on August 2, 2022.

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 191—10.1(522B) as follows:

191—10.1(515K,522B) Purpose and authority.

10.1(1) No change.

10.1(2) These rules are authorized by Iowa Code section 505.8 and are intended to implement Iowa Code chapters 252J, 272D, 515K and 522B.

ITEM 2. Amend rule 191—10.2(522B), parenthetical implementation statute, as follows:

191—10.2(515K,522B) Definitions.

ITEM 3. Amend rule 191—10.3(522B), parenthetical implementation statute, as follows:

191—10.3(515K,522B) Requirement to hold a license.

ITEM 4. Amend rule 191—10.4(522B), parenthetical implementation statute, as follows:

191—10.4(515K,522B) Licensing of resident producers.

ITEM 5. Amend rule 191—10.5(522B), parenthetical implementation statute, as follows:

191—10.5(515K,522B) Licensing of nonresident producers.

ITEM 6. Amend rule 191—10.6(522B), parenthetical implementation statute, as follows:

191—10.6(515K,522B) Issuance of license.

ITEM 7. Amend rule 191—10.8(522B), parenthetical implementation statute, as follows:

191—10.8(515K,522B) License renewal.

INSURANCE DIVISION[191](cont'd)

ITEM 8. Amend rule 191—10.9(522B), parenthetical implementation statute, as follows:

191—10.9(515K,522B) License reinstatement.

ITEM 9. Amend rule 191—10.10(522B), parenthetical implementation statute, as follows:

191—10.10(515K,522B) Reinstatement or reissuance of a license after suspension, revocation or forfeiture in connection with disciplinary matters; and forfeiture in lieu of compliance.

ITEM 10. Amend rule 191—10.12(522B), parenthetical implementation statute, as follows:

191—10.12(515K,522B) Change in name, address or state of residence.

ITEM 11. Amend rule 191—10.13(522B), parenthetical implementation statute, as follows:

191—10.13(515K,522B) Reporting of actions.

ITEM 12. Amend rule 191—10.14(522B), parenthetical implementation statute, as follows:

191—10.14(515K,522B) Commissions and referral fees.

ITEM 13. Amend rule 191—10.15(522B), parenthetical implementation statute, as follows:

191—10.15(515K,522B) Appointments.

ITEM 14. Amend rule 191—10.16(522B), parenthetical implementation statute, as follows:

191—10.16(515K,522B) Appointment renewal.

ITEM 15. Amend rule 191—10.17(522B), parenthetical implementation statute, as follows:

191—10.17(515K,522B) Appointment terminations.

ITEM 16. Amend rule 191—10.18(522B), parenthetical implementation statute, as follows:

191—10.18(515K,522B) Licensing of a business entity.

ITEM 17. Amend rule 191—10.20(522B), parenthetical implementation statute, as follows:

191—10.20(515K,522B) Violations and penalties.

ITEM 18. Amend rule 191—10.21(252J,272D), parenthetical implementation statute, as follows:

191—10.21(252J,272D,515K) Suspension for failure to pay child support or state debt.

ITEM 19. Amend rule 191—10.25(522B), parenthetical implementation statute, as follows:

191—10.25(515K,522B) Forms.

ITEM 20. Amend rule 191—10.26(522B), parenthetical implementation statute, as follows:

191—10.26(515K,522B) Fees.

ITEM 21. Amend rule 191—10.51(522A,522E), parenthetical implementation statute, as follows:

191—10.51(515K,522A,522E) Limited licenses.

ITEM 22. Adopt the following new subrule 10.51(3):

10.51(3) *Limited licenses for persons who sell travel insurance.* Travel insurance is an authorized limited line of authority in this state. All provisions of this chapter apply to travel insurance producers except those specific provisions of Iowa Code chapter 515K as enacted by 2022 Iowa Acts, House File 2540, that directly conflict. Travel retailers operating under Iowa Code section 522B.3 and registering with a limited lines travel insurance producer are not required to be licensed as an insurance producer.

ARC 6408C**INSURANCE DIVISION[191]****Notice of Intended Action****Proposing rule making related to review of rules
and providing an opportunity for public comment**

The Insurance Division hereby proposes to amend Chapter 35, “Accident and Health Insurance,” Chapter 40, “Health Maintenance Organizations,” Chapter 55, “Licensing of Public Adjusters,” Chapter 58, “Third-Party Administrators,” Chapter 71, “Small Group Health Benefit Plans,” Chapter 101, “Burial Sites and Cemeteries,” and Chapter 102, “Iowa Retirement Facilities,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 509.13, 510.9, 513B.1, 514B.23, 514C.4, 522C.3, 523D.10 and 523I.207.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 509, 510, 513B, 514B, 514C, 522C, 523D and 523I.

Purpose and Summary

This proposed rule making is the result of the Division’s ongoing review of rules.

Rule 191—35.21(509) is being updated to be consistent with Iowa Code section 509.1(1), which permits the Commissioner to examine discretionary and nondiscretionary groups to ensure they provide health care benefits that are valuable for Iowa consumers. As health care costs and insurance premiums continue to rise from year to year, the Division has seen an influx of these types of groups. The Division needs the authority to appropriately regulate them and protect Iowa consumers.

The phrase “autism spectrum disorders” is being updated as “autism spectrum disorder” in rule 191—35.40(514C) to conform to 2022 Iowa Acts, House File 2167.

Subrule 40.12(4) is being rescinded since the fee required by this subrule is no longer needed because health maintenance organizations (HMOs) are covered by the Iowa Insurance Guaranty Association pursuant to Iowa Code section 507C.3(7). This fee has not been collected since HMOs were added to the insurers included under Iowa Code section 507C.3.

The proposed new subrule 55.20(7) explains how the examination fee for public adjusters is set. This is the same method used for other licensees under the Division’s authority.

The proposed amendments to Chapter 58 regarding third-party administrators correspond to the standard for insurance producers under Iowa Code section 522B.11(1). These proposed amendments will enable the Division to have more effective oversight of third-party administrators.

A statutory reference is being corrected in subrule 71.14(9).

The proposed amendments to Chapters 101 and 102 correct references and update language.

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.

INSURANCE DIVISION[191](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 Division for a waiver of the discretionary provisions, if any, pursuant to 191—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 Division no later than 12 noon on August 3, 2022. Comments should be directed to:

Angela Burke Boston
Iowa Insurance Division
1963 Bell Avenue, Suite 100
Des Moines, Iowa 50315
Phone: 515.654.6543
Email: angela.burke.boston@iid.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:

August 3, 2022
8:30 a.m.

Via conference call

A conference call number will be available prior to the hearing on the Division's web page at iid.iowa.gov/hearings. Persons wishing to attend the hearing may also contact Angela Burke Boston for hearing information. Persons who wish to make oral comments at the public hearing must submit a request to Angela Burke Boston prior to the public hearing to facilitate an orderly hearing. Persons will 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 impairments, should contact Angela Burke Boston and advise of specific needs.

The public hearing will be canceled without further notice if no public hearing is requested by 12 noon on August 2, 2022.

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 191—35.21(509) as follows:

191—35.21(509) Review of certificates issued under group policies.

35.21(1) Nondiscretionary groups. A certificate of coverage delivered in this state under a group life or accident and health insurance policy issued to a group substantially as described in Iowa Code ~~section 509.1, subsections (1) to (7), shall~~ sections 509.1(1) to 509.1(7) may not be reviewed by the commissioner if the policy is issued outside of this state.

INSURANCE DIVISION[191](cont'd)

35.21(2) Discretionary groups. A certificate of coverage delivered in this state under a group life or accident and health insurance policy issued to a group not substantially as described in Iowa Code ~~section 509.1, subsections (1) to (7), shall~~ sections 509.1(1) to 509.1(7) may not be reviewed by the commissioner if the policy is issued outside of this state and if the policy is issued or offered in a state which has reviewed and approved the policy under a statute substantially similar to Iowa Code section 509.1(8).

ITEM 2. Strike “autism spectrum disorders” wherever it appears in rule **191—35.40(514C)** and insert “autism spectrum disorder” in lieu thereof.

ITEM 3. Rescind subrule **40.12(4)**.

ITEM 4. Adopt the following **new** subrule 55.20(7):

55.20(7) The fee for an examination may be set by the outside testing service under contract with the division and must be approved by the division.

ITEM 5. Amend subrule 58.3(2) as follows:

58.3(2) Application.

a. All third-party administrators wishing to do business in Iowa shall electronically file a completed application and any required attachments in the form prescribed by the division. The division may require the applicant to identify the following persons affiliated with the third-party administrator: owners with 10 percent interest or voting interest, and any partners, officers, directors, members or managers of the business entity. The application shall be accompanied by a filing fee as stated in rule 191—58.18(510).

b. All third-party administrator applicants shall submit a completed biographical affidavit, in a form prescribed by the commissioner, for all individuals identified in paragraph 58.3(2) “a.”

~~b. c.~~ Application for resident third-party administrator certificate of registration.

(1) and (2) No change.

~~c. d.~~ Application for nonresident third-party administrator certificate of registration.

(1) to (3) No change.

~~d. e.~~ The division may refuse to issue a certificate of registration to an applicant as provided in Iowa Code section 510.21, or may refuse to issue a certificate of registration if the division determines that any of the grounds set forth in rule 191—58.16(510) exist with respect to the third-party administrator.

~~e. f.~~ If an application is approved, the division will electronically deliver to the third-party administrator a certificate of registration.

ITEM 6. Amend subrule 58.16(3) as follows:

58.16(3) The commissioner may deny, suspend, revoke, or not renew a third-party administrator’s certificate of registration if the commissioner finds that the third-party administrator:

a. Has violated or failed to comply with any lawful rule insurance laws or any regulation, subpoena, or order of the commissioner or any provision of the insurance laws of this state the commissioner of another state;

b. No change.

c. Has filed an provided incorrect, misleading, incomplete, or materially untrue information in the license application or any necessary forms with the division that contain fraudulent information or omissions;

d. No change.

e. Has provided insufficient explanation, as determined by the commissioner, of the circumstances surrounding evidence that an owner, principal, officer, partner, manager, director, stockholder, trustee, employee of the third-party administrator any person identified in the application of the third-party administrator pursuant to paragraph 58.3(2) “a” or the third-party administrator itself:

(1) Has had an insurance license, or its equivalent, or an application for an insurance such license in any state denied, suspended, revoked, or not renewed in any other state, province, district, or territory;

(2) and (3) No change.

INSURANCE DIVISION[191](cont'd)

(4) Has been ~~charged, tried, convicted of, or had a judgment withheld or deferred with respect to,~~ pled guilty or no contest to, or is currently charged with any felony or misdemeanor;

(5) Has ever been named or involved as a party in an administrative proceeding, including with any state insurance department, federal agency, or a Financial Industry Regulatory Authority (FINRA) sanction or arbitration proceeding regarding any professional or occupational license or registration.

f. to m. No change.

ITEM 7. Amend subrule 71.14(9) as follows:

71.14(9) All carriers shall provide benefits in the standard health benefit plan for the cost associated with equipment, supplies, and education for the treatment of diabetes pursuant to Iowa Code section ~~514C.14~~ 514C.18.

ITEM 8. Amend rule 191—101.1(523I) as follows:

191—101.1(523I) Purpose. This chapter is intended to implement and administer the provisions of Iowa Code chapter 523I ~~as amended by 2016 Iowa Acts, House File 2394,~~ which regulates burial sites and cemeteries.

ITEM 9. Amend subrule 101.8(12), introductory paragraph, as follows:

101.8(12) *Annual report of total return distribution method information.* As part of the annual report required by Iowa Code section 523I.813 and rule ~~199—101.9(523I)~~ 191—101.9(523I), a perpetual care cemetery using the total return distribution method shall file an addendum to the annual report related to the total return distribution method, detailing the following:

ITEM 10. Amend rule 191—101.9(523I) as follows:

191—101.9(523I) Filing annual reports.

101.9(1) *Annual reports filed by perpetual care cemeteries.*

a. Each year between January 1 and April 30, perpetual care cemeteries shall file a complete and accurate annual report for the prior reporting period, in the form and manner required by the division. For purposes of Iowa Code section 523I.813 ~~as amended by 2016 Iowa Acts, House File 2394, section 13,~~ and of this rule, “reporting period” means a calendar year.

b. No change.

101.9(2) *Forms and instructions.* Forms and instructions for perpetual care cemeteries filing the annual report required by Iowa Code section 523I.813 ~~as amended by 2016 Iowa Acts, House File 2394, sections 12 and 13,~~ can be found on the division’s ~~Web site~~ website, www.iid.iowa.gov.

ITEM 11. Amend rule **191—Chapter 101**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 523I ~~as amended by 2016 Iowa Acts, House File 2394.~~

ITEM 12. Amend rule 191—102.3(523D) as follows:

191—102.3(523D) Forms and filings.

102.3(1) Copies of all required forms and instructions are available on the ~~commissioner’s Web site~~ division’s website, www.iid.iowa.gov.

102.3(2) All filings, fees and payments shall be made as directed by the commissioner. Instructions are available at the ~~commissioner’s Web site~~ division’s website, www.iid.iowa.gov.

ARC 6401C

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

**Proposing rule making related to licensure fees for behavior analysts
and providing an opportunity for public comment**

The Board of Behavioral Science hereby proposes to amend Chapter 5, “Fees,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 147.80.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 147.80.

Purpose and Summary

This proposed rule making seeks to amend behavior analyst license fees. When behavior analyst and assistant behavior analyst licensure first started, fees were set at a higher rate to pay back startup costs associated with licensing the profession. Those startup costs have been paid back. This rule making seeks to reduce the higher rate behavior analysts are currently paying for initial licensure to the same rate paid by members of the rest of the professions licensed by the Board.

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

A waiver provision is not included in this rule making because all administrative rules of the professional licensure boards in the Professional Licensure Division are subject to the waiver provisions accorded under 645—Chapter 18.

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 August 2, 2022. Comments should be directed to:

Tony Alden
Professional Licensure Division
Iowa Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.281.4401
Fax: 515.281.3121
Email: tony.alden@idph.iowa.gov

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Public Hearing

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

August 2, 2022
9 to 9:30 a.m.

Fifth Floor Conference Room 526
Lucas 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. In an effort to ensure accuracy in memorializing a person's comments, a person may provide written comments in addition to or in lieu of oral comments at the hearing.

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.

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:

Amend subrule 5.3(3) as follows:

5.3(3) License fee for license to practice as a behavior analyst or assistant behavior analyst is ~~\$300~~ \$120. Behavior analyst and assistant behavior analyst licenses issued for less than one year shall not be subject to a renewal fee for the first renewal.

ARC 6413C

PUBLIC EMPLOYMENT RELATIONS BOARD[621]**Notice of Intended Action****Proposing rule making related to submission of voter eligibility lists
and providing an opportunity for public comment**

The Public Employment Relations Board hereby proposes to amend Chapter 15, "Retention and Recertification Elections," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 20.6(5).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 20.15(2).

Purpose and Summary

This proposed rule making affects rules relating to submission of employee voter eligibility lists for retention and recertification elections. The proposed amendments require employers to submit lists to the agency via secure upload rather than by email.

The proposed amendment in Item 1 requires employers and certified employee organizations to have a representative or agent for service listed in the agency's secure upload filing system and also requires the employers and certified employee organizations to maintain the accuracy of that information.

PUBLIC EMPLOYMENT RELATIONS BOARD[621](cont'd)

Items 2 through 4 address retention and recertification voter eligibility lists. These proposed amendments change the process of submission of voter eligibility lists from email to a secure upload filing system.

Items 2 and 4 also contain conforming amendments regarding the contents of the voter eligibility lists.

Fiscal Impact

The use of a secure upload filing system requires an increase in the expenditure of funds by the agency. However, the cost of the secure upload filing system will be offset by the automation of functions, which reduces the agency time necessary to complete such tasks. Additionally, this system will be used for various functions of the agency.

Jobs Impact

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

Waivers

These rules do not provide for a waiver of their terms, but are instead subject to the agency's general waiver provisions found at rule 621—1.9(17A,20).

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 Board no later than 4:30 p.m. on August 2, 2022. Comments should be directed to:

Erik Helland
Public Employment Relations Board
Jessie Parker Building, Suite 1B
510 East 12th Street
Des Moines, Iowa 50319
Email: iaperb@iowa.gov

Public Hearing

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

August 2, 2022
10 a.m. to 12 noon

Via video conference

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 should contact the agency at iaperb@iowa.gov. The agency will then supply the link to attend the video conference.

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:

PUBLIC EMPLOYMENT RELATIONS BOARD[621](cont'd)

ITEM 1. Amend rule 621—15.1(20) as follows:

621—15.1(20) General procedures. The agency shall determine the date of the election or election period, and the place, method, and other procedural aspects of conducting a retention and recertification election held pursuant to Iowa Code chapter 20. Elections shall be conducted under the direction and supervision of the agency or its election agent and shall be by secret ballot.

Each election will be assigned a “BU” case number in the agency’s electronic document management system (EDMS). A party shall electronically file all documents in its respective BU case file unless the rules specify otherwise.

Employers and certified employee organizations shall have a representative or agent for service listed in the applicable BU case file in EDMS and in the agency’s secure upload filing system. Employers and certified employee organizations have a continuing duty to update the representative or agent for service in the BU case file in EDMS and in the agency’s secure upload filing system.

15.1(1) to 15.1(3) No change.

ITEM 2. Amend subrule 15.2(2) as follows:

15.2(2) Initial *eligible voter eligibility* list.

a. List for determining fees.

(1) The agency will determine the election fee based on the following initial employer-provided list of employees. When the agency files a notice of intent to conduct a retention and recertification election, the employer shall, within seven days of the notice, ~~email~~ submit to the agency through the agency’s secure upload filing system an alphabetical list of the names; addresses; email addresses, if known; telephone numbers, if known; and job classifications of the employees in the bargaining unit. When a telephonic/web-based election is ordered, the list of eligible voters shall also include the employee’s date of birth, the last four digits of the employee’s social security number and any other information required by the agency. The employer shall separately email the certified employee organization to confirm that the employer provided the agency with the voter list and will provide the date the list was ~~emailed~~ submitted to the agency and the number of employees on the list. The employer shall format the list as prescribed by the agency and securely upload the list to the agency’s secure upload filing system in a manner determined by the agency.

(2) The agency shall file the list of eligible voters’ names and job classifications. The agency shall provide to the employee organization the voter list containing the employees’ contact information.

b. Final voter eligibility list.

(1) When the agency files an order that the retention and recertification election be conducted, the employer shall, within seven days of the order, ~~email~~ securely upload to the ~~agency a second~~ agency’s secure upload filing system an updated alphabetical list of the names; addresses; email addresses, if known; telephone numbers, if known; and job classifications of the employees eligible to vote. When a telephonic/web-based election is ordered, the list of eligible voters shall also include the employee’s date of birth, the last four digits of the employee’s social security number and any other information required by the agency. ~~If the original previous list the employer provided for determining fees is unchanged, the employer does not need to email upload this second additional list. The original list, if unchanged, or this second list will become the final list.~~ The agency shall file the list of eligible voters’ names and job classifications. This list shall become the official ~~eligible voter~~ voter eligibility list for the election to be conducted except as provided in subparagraph 15.2(2) “b”(2). The agency shall provide to the employee organization the voter list containing the employees’ contact information.

(2) The employer shall not add to or delete from the list any employee name after the submission of the above-described voter eligibility list. By contacting the employer, the certified employee organization may propose additions to or deletions from the ~~list of employees’ names~~ voter list. The employer shall securely upload any mutually agreed upon amended list to the agency’s secure upload filing system prior to the date of the election for in-person elections, prior to the date the ballots are mailed for mail-ballot elections, or seven days prior to the commencement of the election period for telephonic/web-based elections. The parties may amend the list by agreement prior to the date of the election for in-person

PUBLIC EMPLOYMENT RELATIONS BOARD[621](cont'd)

elections, prior to the date the ballots are mailed for mail-ballot elections, or seven days prior to the commencement of the election period for telephonic/web-based elections.

ITEM 3. Amend subrule 15.5(4) as follows:

15.5(4) ~~Eligible voter~~ *Voter eligibility list for determining election fee.*

a. The public employer shall ~~email~~ submit to the agency through the agency's secure upload filing system a list of the employees in the bargaining unit in question within seven days of the filing of the notice of intent to conduct an election. This list shall be organized alphabetically and contain the names; addresses; email addresses, if known; telephone numbers, if known; and job classifications of the employees in the bargaining unit. When a telephonic/web-based election is ordered, the list of eligible voters shall also include the employee's date of birth, the last four digits of the employee's social security number and any other information required by the agency. ~~The employer shall separately email the certified employee organization to confirm that the employer provided the agency with the voter list and will provide the date the list was emailed to the agency and the number of employees on the list. The employer shall format the list as prescribed by the agency and securely upload the list to the agency's secure upload filing system in a manner determined by the agency. The agency shall file the list of eligible voters' names and job classifications. The agency shall provide to the certified employee organization the list with the employees' contact information. The certified employee organization shall use this list to determine the election fee as provided in subrule 15.5(5).~~

b. No change.

ITEM 4. Amend subrule 15.5(6) as follows:

15.5(6) *Final voter eligibility list.*

a. When the agency files an order directing that the retention and recertification election be conducted, the employer shall, within seven days of the order, ~~email~~ submit to the agency ~~a second~~ through the agency's secure upload filing system an updated alphabetical list of the names; addresses; email addresses, if known; telephone numbers, if known; and job classifications of the employees eligible to vote. When a telephonic/web-based election is ordered, the list of eligible voters shall also include the employee's date of birth, the last four digits of the employee's social security number and any other information required by the agency. If the previous list the employer previously provided pursuant to subrule 15.5(4) is unchanged, the employer does not need to email a subsequent upload this additional list. The agency shall file the list of eligible voters' names and job classifications. This list shall become the official ~~eligible voting~~ voter eligibility list for the election to be conducted ~~except as provided in subparagraph 15.2(2) "b"(2).~~ The agency shall provide to the certified employee organization the voter list containing the employees' contact information.

b. The employer shall not add to or delete from the list any employee name after the submission of the above-described voter eligibility list. By contacting the employer, the certified employee organization may propose additions to or deletions from the list of employees' names prior to the date of the election for in-person elections, prior to the date the ballots are mailed for mail-ballot elections, or seven days prior to the commencement of the election period for telephonic/web-based elections. The parties may amend the list by agreement prior to the date of the election for in-person elections, prior to the date the ballots are mailed for mail-ballot elections, or seven days prior to the commencement of the election period for telephonic/web-based elections.

ARC 6400C

REVENUE DEPARTMENT[701]

Notice of Intended Action

**Proposing rule making related to sales, use, and excise taxes
and providing an opportunity for public comment**

The Revenue Department hereby proposes to renumber various chapters of the Iowa Administrative Code in accordance with the chart below. The Department additionally proposes to rescind Chapter

REVENUE DEPARTMENT[701](cont'd)

16, “Taxable Sales”; amend Chapter 67 [renumbered Chapter 259], “Administration,” Chapter 70, “Replacement Tax and Statewide Property Tax,” Chapter 81, “Administration,” Chapter 86, “Inheritance Tax,” Chapter 91 [renumbered Chapter 262], “Administration of Marijuana and Controlled Substances Stamp Tax,” Chapter 97 [renumbered Chapter 252], “State-Imposed Water Service Excise Tax,” Chapter 103 [renumbered Chapter 253], “State-Imposed and Locally Imposed Hotel and Motel Taxes,” and Chapter 107 [renumbered Chapter 270], “Local Option Sales and Services Tax”; rescind Chapter 108, “Local Option School Infrastructure Sales and Service Tax”; amend Chapter 120, “Reassessment Expense Fund,” Chapter 122, “Administration,” and Chapter 150, “Federal Offset for Iowa Income Tax Obligations”; adopt new Chapter 210, “Purchases by Businesses,” and new Chapter 212, “Governments and Nonprofits”; amend Chapter 215 [renumbered Chapter 207], “Remote Sales and Marketplace Sales”; adopt new Chapter 216, “Events, Amusements, and Other Related Activities”; amend Chapter 223 [renumbered Chapter 205], “Sourcing of Taxable Services, Tangible Personal Property, and Specified Digital Products,” Chapter 226 [renumbered Chapter 214], “Agricultural Rules,” and Chapter 230 [renumbered Chapter 215], “Exemptions Primarily Benefiting Manufacturers and Other Persons Engaged in Processing”; and rescind Chapter 241, “Excise Taxes Not Governed by the Streamlined Sales and Use Tax Agreement,” 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 chapters 423, 423A, 423B, 423C, 423F, 423G, 452A and 453A.

Purpose and Summary

The Iowa Department of Revenue presents this proposed rule making to reorganize its chapters of rules related to sales, use, and excise taxes. The Department currently has chapters of rules covering these tax types throughout its many titles. Following adoption of this rule making, all sales, use, and excise tax rules will be located in a chapter starting with 200, where the Department’s more recent sales tax rules are now located. This proposed rule making moves any sales or excise tax chapters that will be kept mostly intact substantively into new chapters. Any sales or use tax chapters not being moved in this proposed rule making are likely to be significantly revised or be rescinded entirely in future rule makings.

The following table lists existing chapters and identifies their new numbers in this rule making. The list of new chapter numbers does not include new chapters to be adopted either in this proposed rule making or in future rule makings. The Department plans to adopt a rule in the near future to establish a reference table for rules that have been renumbered.

Old Number	Subject	New Number
Ch. 4	Multilevel marketers	Ch. 208
Ch. 27	Vehicle rental excise	Ch. 251
Ch. 34	Vehicle fee for new registration	Ch. 250
Chs. 67-69	Motor fuel excise	Chs. 259-261
Chs. 81-85	Cigarette and tobacco excise	Chs. 254-258
Ch. 91	Controlled substances drug stamps	Ch. 262
Ch. 97	Water service excise	Ch. 252
Ch. 103	Hotel and motel excise	Ch. 253
Ch. 107	LOST	Ch. 270

REVENUE DEPARTMENT[701](cont'd)

Ch. 108	SILO	Rescinded
Ch. 109	SAVE	Ch. 271
Ch. 211	Sales tax definitions	Ch. 200
Ch. 212	Elements included or excluded from sales price	Ch. 203
Ch. 215	Remote and marketplace sales	Ch. 207
Ch. 216	Bundled transactions	Ch. 206
Ch. 223	Sourcing	Ch. 205
Ch. 224	Telecom services	Ch. 217
Ch. 226	Agriculture	Ch. 214
Ch. 230	Manufacturing	Ch. 215
Ch. 231	Exemptions for consumers	Ch. 220 (temporarily; will be split into other chapters in the future)
Ch. 235	Rebate programs	Ch. 275
Ch. 237	Reinvestment districts	Ch. 273
Ch. 238	Flood mitigation program	Ch. 272
Ch. 239	Urban renewal projects	Ch. 274
Ch. 240	Implementation of streamlined sales and use tax agreement	Ch. 204
Ch. 241	General excise taxes	Rescinded
Ch. 242	Response to disasters	Ch. 276
Ch. 250	Refunds for biodiesel production	Ch. 277

As part of this reorganization effort, the Department plans to rescind rules that are no longer needed. Existing Chapter 16 (“Taxable Sales”) has some rules that still have value, but many other rules in the chapter have already been duplicated in newer chapters, such as in Chapter 213. This proposed rule making rescinds Chapter 16 and adopts some of those rules in a new Chapter 210 (“Purchases by Businesses”). There are no significant substantive changes; the Department is mainly updating Iowa Code references and rule cross-references, replacing outdated terms such as changing “gross receipts” to “sales price,” and adding subheadings to previously unnumbered paragraphs.

This proposed rule making also moves some rules from current Chapter 213 into the new Chapter 210. The remaining rules in Chapter 213 will become a newly titled chapter (“Purchases by Individuals”) in a future rule making. Lastly, this proposed rule making adds definitions of “profession” and “occupation” in renumbered rule 701—215.18(423) (formerly rule 701—230.18(423)). These definitions were inadvertently deleted in a rule making last year during the removal of obsolete definitions of “computer” from Chapter 230.

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 701—7.28(17A).

REVENUE DEPARTMENT[701](cont'd)

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 19, 2022. Comments should be directed to:

Tim Reilly
Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306
Phone: 515.782.0535
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:

August 11, 2022
10 to 11 a.m.

Room 1 NW
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 actions are proposed:

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- ITEM 1. Renumber **701—Chapter 4** as **701—Chapter 208**.
- ITEM 2. Rescind and reserve **701—Chapter 16**.
- ITEM 3. Renumber **701—Chapter 27** as **701—Chapter 251**.
- ITEM 4. Renumber **701—Chapter 34** as **701—Chapter 250**.
- ITEM 5. Renumber **701—Chapter 67** as **701—Chapter 259**.
- ITEM 6. Renumber **701—Chapter 68** as **701—Chapter 260**.
- ITEM 7. Renumber **701—Chapter 69** as **701—Chapter 261**.
- ITEM 8. Rescind the title heading before **701—Chapter 70**.
- ITEM 9. Renumber **701—Chapter 81** as **701—Chapter 254**.
- ITEM 10. Renumber **701—Chapter 82** as **701—Chapter 255**.
- ITEM 11. Renumber **701—Chapter 83** as **701—Chapter 256**.
- ITEM 12. Renumber **701—Chapter 84** as **701—Chapter 257**.
- ITEM 13. Renumber **701—Chapter 85** as **701—Chapter 258**.
- ITEM 14. Rescind the title heading before **701—Chapter 86**.
- ITEM 15. Renumber **701—Chapter 91** as **701—Chapter 262**.
- ITEM 16. Renumber **701—Chapter 97** as **701—Chapter 252**.
- ITEM 17. Renumber **701—Chapter 103** as **701—Chapter 253**.
- ITEM 18. Renumber **701—Chapter 107** as **701—Chapter 270**.
- ITEM 19. Rescind and reserve **701—Chapter 108**.
- ITEM 20. Renumber **701—Chapter 109** as **701—Chapter 271**.
- ITEM 21. Rescind the title heading before **701—Chapter 120**.
- ITEM 22. Rescind the title heading before **701—Chapter 122**.
- ITEM 23. Rescind the title heading before **701—Chapter 150**.
- ITEM 24. Adopt the following new 701—Chapter 210:

CHAPTER 210
PURCHASES BY BUSINESSES

701—210.1(423) Wholesalers and jobbers selling at retail. Sales made by a wholesaler or jobber to a purchaser for use or consumption by the purchaser or in the purchaser's business and not for resale are considered retail sales and subject to tax, even if sales are made at wholesale prices or in wholesale quantities.

This rule is intended to implement Iowa Code section 423.2(1).

701—210.2(423) Materials and supplies sold to retail stores. The sales price of materials and supplies sold to retail stores for their use and not for resale shall be subject to tax. The retail store is the final buyer and ultimate consumer of such items as fuel, cash registers, adding machines, typewriters, stationery, display fixtures and numerous other commodities that are not sold by the store to its customers.

This rule is intended to implement Iowa Code section 423.2.

701—210.3(423) Tangible personal property and specified digital products purchased for resale but incidentally consumed by the purchaser. A retailer engaged in the business of selling tangible personal property or specified digital products who takes merchandise from stock for personal use, consumption, or gifts shall report these items as "goods consumed" on the sales and use tax return and

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remit sales tax and any applicable local option sales tax on the purchase cost of the items. This rule does not authorize purchase for resale of items intended to be used by the retailer.

This rule is intended to implement Iowa Code section 423.2.

701—210.4(423) Property furnished without charge by employers to employees. When an employer furnishes tangible personal property, including meals, or specified digital products to employees without charge or uses merchandise for gifts or consumption, the cost to the employer of the tangible personal property or specified digital products shall be subject to sales tax and any applicable local option sales tax and reported on the employer's return as "goods consumed" if the employer has not previously paid tax to a retailer. However, the food purchased by the employer for meals prepared for employees is not subject to tax.

This rule is intended to implement Iowa Code section 423.2.

701—210.5(423) Owners or operators of buildings. Owners or operators of buildings who purchase items to be used by them in maintaining the building are the users or consumers and shall pay sales tax to their suppliers.

210.5(1) When owners or operators of buildings remeter and bill their tenants for electric current, gas, or any other taxable service consumed by the tenants, such owners or operators shall be considered to be purchasing the electric current, gas, or other taxable service for resale. These owners or operators shall hold permits and shall be liable for the tax upon the sales price of the sale of such service. When the building owners or operators purchase all of the electric current, gas, or other services for resale and consume a portion in the operation of the building, they shall be liable for sales tax on that portion consumed, based upon the cost of the electric current or gas purchased for resale.

210.5(2) When the management of a building sells heat to other buildings or other persons and charges for such service as a sale of heat, such transactions are considered sales at retail and shall be subject to tax.

210.5(3) When heat is furnished to tenants as a service to them, incidental to the renting of the space, there shall be no tax. When heat is sold separately and billed to the tenants separately, such service shall be taxable.

210.5(4) When a building manager makes sales of tangible personal property, specified digital products, or taxable services at retail, the manager shall be required to procure a permit and collect and remit tax.

This rule is intended to implement Iowa Code section 423.2.

701—210.6(423) Blacksmith and machine shops. When a blacksmith or machine shop operator fabricates finished tangible personal property from raw materials and sells such property at retail, tax shall apply on the total charge which includes the fabrication labor. Rule 701—26.28(422) contains information on the taxable service of machine operation.

This rule is intended to implement Iowa Code section 423.2.

701—210.7(423) Truckers engaged in retail business. Truckers or haulers engaged in the sale of tangible personal property to ultimate users or consumers shall be deemed as making taxable sales.

This rule is intended to implement Iowa Code section 423.2.

701—210.8(423) Out-of-state truckers selling at retail in Iowa. Truckers or persons engaged in the sale of tangible personal property at retail in Iowa based outside of Iowa by means of hauling the tangible personal property into the state shall collect and remit Iowa sales tax. To ensure the remission of tax on Iowa sales, the department has the statutory authority to require a bond deposit from sellers classified in this rule. This right shall be exercised when necessary.

This rule is intended to implement Iowa Code section 423.2.

701—210.9(423) Iowa dental laboratories.

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210.9(1) Sales by dental laboratories. Iowa dental laboratories are engaged in selling tangible personal property to Iowa dentists. Such laboratories shall hold a retail sales tax permit and collect and report all tax due from dentists in all transactions involving taxable retail sales.

210.9(2) Purchases not subject to tax. Iowa dental laboratories shall not be subject to tax on those purchases of tangible personal property that form a component or integral part of new work or repair work being furnished to Iowa dentists or other dentists or would be exempt if purchased directly by the dentist's patient.

210.9(3) Purchases subject to tax. Iowa dental laboratories are the final user or consumer of all tangible personal property, including tools, office supplies, equipment, and any other tangible personal property not otherwise exempt. Sales tax shall be remitted to its Iowa supplier when purchasing in this state, and use tax shall be remitted directly to the department when such items are purchased from out-of-state suppliers, unless the out-of-state supplier is registered with the department and collects sales or use tax for the state.

This rule is intended to implement Iowa Code sections 423.2 and 423.33.

701—210.10(423) Dental supply houses. Dental supply houses are engaged in selling tangible personal property to dentists and dental laboratories. Such dental supply houses shall collect and report all tax due from purchasers in all transactions involving taxable retail sales. This shall not include sales of tangible personal property that will form a component or integral part of new work or repair work being furnished to Iowa dentists or other dentists or would be exempt if sold directly to an individual.

This rule is intended to implement Iowa Code section 423.2.

701—210.11(423) News distributors and magazine distributors. News distributors and magazine distributors engaged in intrastate sales of magazines and periodicals in Iowa to vendors that are engaged in part-time distribution of such magazines are deemed to be making sales at retail. The sales price of such sales shall be subject to sales tax.

This rule is intended to implement Iowa Code section 423.2.

701—210.12(423) Magazine subscriptions by independent dealers. The sales price of the sale of subscription magazines or periodicals derived by independent distributors or dealers in the state of Iowa that secure such subscriptions as independent dealers or distributors shall be subject to tax.

This rule is intended to implement Iowa Code section 423.2.

701—210.13(423) Sales by finance companies. A finance company that repossesses or acquires tangible personal property or specified digital products in connection with its finance business and sells tangible personal property or specified digital products at retail in Iowa shall be required to hold a permit and remit the current rate of tax on the sales price of such sales at retail in Iowa.

This rule is intended to implement Iowa Code section 423.2.

701—210.14(423) Bowling.

210.14(1) Pinsetters. The rental of automatic pinsetters by bowling alley operators is subject to the imposition of sales tax since the pinsetters are not resold to patrons. Therefore, the operator of the alley is considered the consumer of the pinsetter rental.

210.14(2) Shoes. The rental of bowling shoes is subject to the imposition of sales tax as equipment rental.

210.14(3) Score sheets. The sales of bowling score sheets to operators of bowling establishments are subject to the imposition of sales tax since the operators are the consumers of such score sheets.

This rule is intended to implement Iowa Code section 423.2.

701—210.15(423) Various special problems relating to public utilities.

210.15(1) Late payment charges. The amount of any charge, commonly called a "late payment charge," imposed by a public utility on its customers shall not be subject to tax if the charge is in addition to any charge for the utility's sale of its commodity or service and is imposed solely for the

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privilege of deferring payment of the purchase price of the commodity or service and furthermore is separately stated and reasonable in amount.

210.15(2) Due dates. The date of the billing of charges for a public utility's sales shall be used to determine the period in which the utility shall remit tax upon the amount charged. The utility shall remit tax upon the sales price of any bill during the period that includes the billing date. Thus, if the date of a billing is March 31 and the due date for payment of the bill without penalty is April 20, tax upon the sales price contained in the bill shall be included in the return for the first quarter of the year. The same principle shall be used to determine when tax will be included in payment of a deposit.

210.15(3) Franchise fees. In general, the amount of any franchise fee that a public utility pays to a city for the privilege of operating and that is directly or indirectly passed on to the utility's customers shall be included in sales price subject to tax. This will be true even if the amount of the franchise fee is computed as a percentage of other sales price subject to tax and is separately stated and separately charged to the immediate consumer of the commodity or service. However, if, in the future, it becomes lawful for a city to impose a sales or use tax and such tax is imposed upon the customers of public utilities in the guise of a franchise fee, the amount of this city excise tax shall not be subject to Iowa tax if the tax imposed by the city is separately stated and separately billed.

This rule is intended to implement Iowa Code section 423.2(2).

701—210.16(423) Sales of engraved, bound, printed, and vulcanized materials.

210.16(1) Engraving. Engraving includes the business of engraving on wood, metal, stone, or any other material. The engraved material is tangible personal property, the sales price of which is subject to tax.

210.16(2) Binding. Persons engaged in the business of binding any printed matter, other than for the purpose of ultimate sale at retail, are engaged in the sale of tangible personal property, the sales price of which is subject to tax.

210.16(3) Printing. Printing includes, but is not limited to, any type of printing, lithographing, mimeographing, photocopying and similar reproduction. The following activities are nonexclusive examples of printed tangible personal property that are subject to tax: printing of pamphlets, leaflets, stationery, envelopes, folders, bond and stock certificates, abstracts, law briefs, business cards, matchbook covers, campaign posters and banners for the users thereof.

210.16(4) Vulcanizing. "Vulcanizing" means the act or process of treating crude rubber, synthetic rubber, or other rubberlike material with a chemical and subjecting it to heat in order to increase its strength and elasticity. The item produced after vulcanizing is tangible personal property, the sales price of which is subject to sales tax.

This rule is intended to implement Iowa Code section 423.2(1) "a."

ITEM 25. Renumber **701—Chapter 211** as **701—Chapter 200**.

ITEM 26. Amend renumbered **701—Chapter 200**, Title XIX heading, as follows:

TITLE ~~XIX~~ VII

~~STREAMLINED SALES AND USE TAX RULES~~ SALES, USE, AND EXCISE TAX

ITEM 27. Renumber **701—Chapter 212** as **701—Chapter 203**.

ITEM 28. Adopt the following new 701—Chapter 212:

CHAPTER 212
GOVERNMENTS AND NONPROFITS

701—212.1(423) Sales to certain corporations organized under federal statutes. The sale of tangible personal property, specified digital products, or taxable services at retail to the following corporations are sales for final use or consumption to which tax shall apply:

1. Federal savings and loan associations.
2. Federal savings and trust companies.

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3. National banks.
4. Other organizations of like character.

This rule is intended to implement Iowa Code section 423.2.

ITEM 29. Rescind and reserve rules **701—213.1(423)** and **701—213.2(423)**.

ITEM 30. Renumber rule **701—213.6(423)** as **701—210.17(423)**.

ITEM 31. Renumber rule **701—213.9(423)** as **701—210.18(423)**.

ITEM 32. Renumber existing rule **701—213.17(423)** as **701—210.19(423)**.

ITEM 33. Renumber rule **701—213.24(423)** as **701—210.20(423)**.

ITEM 34. Adopt the following new rule 701—213.26(423):

701—213.26(423) Sales of prepaid telephone cards or calling services. Sales of prepaid telephone calling cards and prepaid authorization numbers that furnish the holder with communication service are taxable as sales of tangible personal property.

This rule is intended to implement Iowa Code section 423.2(1) “a.”

ITEM 35. Renumber **701—Chapter 215** as **701—Chapter 207**.

ITEM 36. Amend renumbered subrule 207.1(1) as follows:

207.1(1) Incorporation of definitions. To the extent ~~it is~~ they are 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)~~ 701—200.1(423).

ITEM 37. Renumber **701—Chapter 216** as **701—Chapter 206**.

ITEM 38. Adopt the following new 701—Chapter 216:

CHAPTER 216 EVENTS, AMUSEMENTS, AND OTHER RELATED ACTIVITIES

701—216.1(423) Athletic events. The sales price from the sale of tickets or admissions to athletic events occurring in the state of Iowa and sponsored by educational institutions, without regard to the use of the proceeds from such sales, shall be subject to tax, except when the events are sponsored by elementary and secondary educational institutions.

This rule is intended to implement Iowa Code section 423.2(3).

ITEM 39. Renumber **701—Chapter 223** as **701—Chapter 205**.

ITEM 40. Amend renumbered subrule 205.4(2) as follows:

205.4(2) Sourcing of personal care services. Except as otherwise provided in the agreement or the rules adopted by the governing board, a purchaser receives a personal care service within the meaning of rule ~~701—211.1(423)~~ 701—200.1(423) at the location where the services are performed, which is the same location where the services are received by the purchaser (or the purchaser’s donee). The services will be received by the purchaser (or the purchaser’s donee) either at the seller’s location, pursuant to Iowa Code section 423.15(1) “a,” or at the purchaser’s (or the purchaser’s donee) location, pursuant to Iowa Code section 423.15(1) “b.”

ITEM 41. Renumber **701—Chapter 224** as **701—Chapter 217**.

ITEM 42. Renumber **701—Chapter 226** as **701—Chapter 214**.

ITEM 43. Amend renumbered paragraph **214.1(3)“a”** as follows:

a. Production of agricultural products. The term “production of agricultural products” means the same as the term “agricultural production,” which is defined in rule ~~701—211.1(423)~~ 701—200.1(423) to mean a farming operation undertaken for profit by the raising of crops or livestock. Nonexclusive

REVENUE DEPARTMENT[701](cont'd)

examples of items not included within the meaning of the term “agricultural production” are the clearing or preparation of previously uncultivated land, the creation of farm ponds, and the erection of machine sheds, confinement facilities, storage bins, or other farm buildings. *See Trullinger v. Fremont County*, 223 Iowa 677, 273 N.W. 124 (1937). Machinery and equipment used for these purposes would be used for activities which are preparatory to, but not a part of, the production of agricultural products and, therefore, are not exempt.

ITEM 44. Amend renumbered rule 701—214.3(423) as follows:

701—214.3(423) Irrigation equipment used in agricultural production. The sales price from the sale or rental of irrigation equipment used in agricultural production is exempt from tax. The term “irrigation equipment” includes, but is not limited to, circle irrigation systems and trickle irrigation systems, whether installed aboveground or belowground, as long as the equipment is sold to or rented by a contractor or farmer and the equipment is directly and primarily used in agricultural production. The term “agricultural production” is defined in rule 701—211.1(423) 701—200.1(423).

This rule is intended to implement Iowa Code ~~subsections~~ sections 423.3(12) and 423.3(13).

ITEM 45. Amend renumbered subrule 214.6(2) as follows:

214.6(2) Agricultural limestone. Sales of agricultural limestone are exempt from sales and use tax only if the purchaser intends to use the limestone for disease control, weed control, insect control, or health promotion of plants or livestock produced for market as part of agricultural production. *See rule 701—211.1(423) for Rule 701—200.1(423) contains* definitions of “agricultural production” and “plants.” Sales of agricultural limestone used for other purposes are subject to sales tax. Examples of taxable ~~use sales~~ include, but are not limited to, sales of agricultural limestone for application on a lawn, golf course, or cemetery.

ITEM 46. Amend renumbered rule 701—214.7(423) as follows:

701—214.7(423) Sales of breeding livestock. The sale of agricultural livestock is exempt from tax only if at the time of purchase the purchaser intends to use the livestock primarily for breeding. The sale of agricultural livestock ~~which that~~ is capable of breeding, but will not be used for breeding or primarily for breeding, is not exempt from tax. However, sales of most nonbreeding agricultural livestock to farmers would be a sale for resale and exempt from tax. *See rule 701—211.1(423) for Rule 701—200.1(423) contains* a definition of “livestock.”

EXAMPLE 1: A breeding service purchases a prize bull from a farmer. At the time of sale, the intent of the purchaser is to use the bull for breeding other cattle. The sale of the bull is exempt from tax even though three years later the breeding service sells the bull to a meat packer.

EXAMPLE 2: A farmer purchases dairy cows. To ensure production of milk over a sustained period of time, dairy cows must be bred to produce calves. If a farmer purchases dairy cows for the primary purpose of using them to produce milk and incidentally breeds them to ensure that this milk will be produced, the sale of the dairy cows to the farmer is not exempt from tax. If the farmer purchases the dairy cows for the primary purpose of using them to produce calves and, incidental to that purpose, at times sells the milk which the cows produce, the sale of the dairy cows to the farmer is exempt from tax.

This rule is intended to implement Iowa Code ~~subsection~~ section 423.3(3).

ITEM 47. Amend renumbered rule 701—214.8(423) as follows:

701—214.8(423) Domesticated fowl. The purchase of any domesticated fowl for the purpose of providing eggs or meat is exempt from tax, whether purchased by a person engaged in agricultural production or not. *See rule 701—211.1(423) for Rule 701—200.1(423) contains* a definition of the term “domesticated fowl.”

This rule is intended to implement Iowa Code ~~subsection~~ section 423.3(3).

ITEM 48. Amend renumbered subrule 214.9(1) as follows:

214.9(1) Definitions. For purposes of this rule, the following definitions apply:

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“Adjuvant” means any substance which is added to a herbicide, a pesticide, or an insecticide to increase its potency.

“Agricultural production” means the same as defined in rule ~~701—211.1(423)~~ 701—200.1(423).

“Food” includes vitamins, minerals, other nutritional food supplements, and hormones sold to promote the growth of livestock.

“Herbicide” means any substance intended to prevent, destroy, or retard the growth of plants including fungi. The term shall include preemergence, postemergence, lay-by, pasture, defoliant, and desiccant herbicides and fungicides.

“Insecticide” means any substance used to kill insects. Any substance used merely to repel insects is not an insecticide. Mechanical devices which are used to kill insects are not insecticides.

“Livestock” means the same as defined in rule ~~701—211.1(423)~~ 701—200.1(423). For the purposes of this rule, “livestock” includes domesticated fowl.

“Medication” includes antibiotics or other similar drugs administered to livestock.

“Pesticide” means any substance which is used to kill rodents or smaller vermin, other than insects, such as nematodes, spiders, or bacteria. For the purposes of this rule, a disinfectant is a pesticide. Excluded from the term “pesticide” is any substance which merely repels pests or any device, such as a rat trap, which kills pests by mechanical action.

“Plants” means the same as defined in rule ~~701—211.1(423)~~ 701—200.1(423).

“Surfactant” means a substance which is active on a surface.

ITEM 49. Amend renumbered subrule 214.12(1) as follows:

214.12(1) Definitions. For purposes of this rule, the following definitions apply:

“Aquaculture” means the same as defined in rule ~~701—211.1(423)~~ 701—200.1(423).

“Fuel” includes electricity.

“Implement of husbandry” means the same as defined in rule ~~701—211.1(423)~~ 701—200.1(423).

“Livestock” means the same as defined in rule ~~701—211.1(423)~~ 701—200.1(423) and includes domesticated fowl.

ITEM 50. Amend renumbered rule ~~701—214.14(423)~~ as follows:

~~701—214.14(423)~~ Bedding for agricultural livestock or fowl. The sales price from the sale of woodchips, sawdust, hay, straw, paper, or any other materials used for bedding in the production of agricultural livestock (including domesticated fowl) is exempt from tax. ~~See rule 701—211.1(423) for Rule 701—200.1(423) contains~~ definitions applicable to this rule.

This rule is intended to implement Iowa Code ~~subsection~~ section 423.3(9).

ITEM 51. Renumber **~~701—Chapter 230~~** as **~~701—Chapter 215~~**.

ITEM 52. Adopt the following new paragraph **~~215.18(3)~~“d”**:

d. Professions and occupations. The term “profession” means a vocation or employment requiring specialized knowledge and often long and intensive academic preparation. The term “occupation” means the principal business of an individual, such as the business of farming. A professional entity that carries on any profession or occupation, such as an accounting firm, is not a commercial enterprise.

REVENUE DEPARTMENT[701](cont'd)

- ITEM 53. Renumber existing **701—Chapter 231** as **701—Chapter 220**.
- ITEM 54. Renumber **701—Chapter 235** as **701—Chapter 275**.
- ITEM 55. Renumber **701—Chapter 237** as **701—Chapter 273**.
- ITEM 56. Renumber **701—Chapter 238** as **701—Chapter 272**.
- ITEM 57. Renumber **701—Chapter 239** as **701—Chapter 274**.
- ITEM 58. Renumber **701—Chapter 240** as **701—Chapter 204**.
- ITEM 59. Rescind **701—Chapter 241**.
- ITEM 60. Renumber **701—Chapter 242** as **701—Chapter 276**.
- ITEM 61. Renumber existing **701—Chapter 250** as **701—Chapter 277**.
- ITEM 62. Rescind the title heading before renumbered **701—Chapter 252**.
- ITEM 63. Amend renumbered subrule 252.1(1) as follows:
252.1(1) Incorporation of definitions. To the extent they are consistent with Iowa Code chapter 423G, all words and phrases used in this chapter shall mean the same as defined in Iowa Code section 423.1 and rule ~~701—211.1(423)~~ 701—200.1(423).
- ITEM 64. Amend renumbered subrule 253.1(1) as follows:
253.1(1) Incorporation of definitions. To the extent ~~it is~~ they are consistent with Iowa Code chapter 423A and this chapter, all other words and phrases used in this chapter shall mean the same as defined in Iowa Code section 423.1 and rule ~~701—211.1(423)~~ 701—200.1(423).
- ITEM 65. Rescind the title heading before renumbered **701—Chapter 254**.
- ITEM 66. Rescind the title heading before renumbered **701—Chapter 259**.
- ITEM 67. Rescind the title heading before renumbered **701—Chapter 262**.
- ITEM 68. Rescind the title heading before renumbered **701—Chapter 270**.
- ITEM 69. Amend renumbered subrule 270.1(1) as follows:
270.1(1) Incorporation of definitions. To the extent it is consistent with Iowa Code chapter 423B and this chapter, all other words and phrases used in this chapter shall mean the same as defined in Iowa Code chapter 423B, Iowa Code section 423.1, and rule ~~701—211.1(423)~~ 701—200.1(423).
- ITEM 70. Amend renumbered subrule 270.4(1) as follows:
270.4(1) Incorporation of ~~701—Chapter 12~~ 701—Chapter 202. Except as otherwise stated in this chapter, the requirements of ~~701—Chapter 12~~ 701—Chapter 202 shall apply to retailers required to collect local option tax in the same manner as those requirements apply to all sellers and retailers making sales subject to state sales tax.
- ITEM 71. Amend renumbered rule 701—270.5(423B) as follows:
701—270.5(423B) Permits. Except as otherwise stated in this chapter, the requirements of ~~701—Chapter 13~~ 701—Chapter 201 shall apply to retailers required to collect local option tax in the same manner that those requirements apply to all sellers and retailers making sales subject to state sales tax.
This rule is intended to implement Iowa Code section 423B.6.

ARC 6399C**REVENUE DEPARTMENT[701]****Notice of Intended Action****Proposing rule making related to permits, filing returns, and payments of sales and use taxes and providing an opportunity for public comment**

The Revenue Department hereby proposes to rescind Chapter 12, “Filing Returns, Payment of Tax, Penalty and Interest,” Chapter 13, “Permits,” Chapter 28, “Definitions,” Chapter 29, “Certificates,” and Chapter 30, “Filing Returns, Payment of Tax, Penalty, and Interest”; amend Chapter 42, “Adjustments to Computed Tax and Tax Credits,” Chapter 52, “Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits,” Chapter 67, “Administration,” Chapter 81, “Administration,” Chapter 97, “State-Imposed Water Service Excise Tax,” and Chapter 103, “State-Imposed and Locally Imposed Hotel and Motel Taxes”; adopt new Chapter 201, “Sales and Use Tax Permits,” and Chapter 202, “Filing Returns and Payment of Tax”; amend Chapter 215, “Remote Sales and Marketplace Sales”; and adopt new Chapter 258, “Refunds for Eligible Businesses Under Economic Development Authority Programs,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 421.14 and 2022 Iowa Acts, Senate File 2367.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2022 Iowa Acts, Senate File 2367.

Purpose and Summary

Pursuant to 2022 Iowa Acts, Senate File 2367, the Iowa Department of Revenue proposes this rule making to replace its existing chapters of rules related to permits, filing returns, and payments of sales and use taxes. Overall, new Chapters 201 and 202 are modeled on current Chapters 13 and 12, respectively, but there are a few notable updates and additions.

The Department will no longer refer to different use tax obligations as “consumer’s use tax” and “retailer’s use tax”; those terms are being replaced by references to “purchases subject to use tax” and “sales subject to use tax,” respectively. This change will be reflected on the revised sales and use tax return, available for tax periods starting on or after July 1, 2022, and will be incorporated into the Department’s informal guidance.

New subrule 201.1(4) establishes a threshold by which the Department expects a taxpayer to obtain a permit to remit use tax instead of filing the nonpermit use tax return. Subrule 201.2(3) reflects current practice related to retroactive or backdated permits and filing and payment obligations for those prior tax periods. Subrule 201.2(5) reflects current practice regarding seasonal permits and adjusts the amount of tax periods in which a taxpayer may file as a seasonal filer to reflect the change from quarterly to monthly tax periods. Rules 701—201.4(423) and 701—201.6(423) relating to reinstatement of canceled permits and changes of locations are updated from their predecessors in Chapter 13 to reflect current practice.

Rule 701—202.1(423) implements the return filing and tax payment frequency changes from 2022 Iowa Acts, Senate File 2367. Rule 701—202.2(423) explains how a taxpayer should complete the new combined sales and use tax return to accurately report which tax type is being reported. Rule 701—202.3(423) establishes proper methods for remitting tax based on filing frequency. Subrule 202.5(3) requires a taxpayer filing a consolidated sales tax schedule to file that return electronically. Subrule 202.11(4) reflects current practice regarding refund claims for use tax.

Rather than retain a rule in a chapter about filing returns, the Department proposes to move rule 701—12.19(15) related to refunds for businesses approved for various Iowa Economic Development Authority programs into its own new Chapter 258. Rule 701—97.8(423G) related to filing frequency

REVENUE DEPARTMENT[701](cont'd)

for water service excise tax is also proposed to be updated to reflect the changes made in Senate File 2367. The remaining proposed items update related cross-references.

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 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 August 2, 2022. Comments should be directed to:

Tim Reilly
Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306
Phone: 515.782.0535
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:

August 11, 2022
9 to 10 a.m.

Room 1 NW
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).

Emergency Rule Making Adopted by Reference

This proposed rule making is also published herein as an Adopted and Filed Emergency rule making (see **ARC 6398C**, IAB 7/13/22). 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 6414C**SECRETARY OF STATE[721]****Amended Notice of Intended Action****Providing for a public hearing on rule making related to constitutional amendment**

The Notice of Intended Action published in the Iowa Administrative Bulletin on June 1, 2022, as **ARC 6341C**, proposes to amend Chapter 21, "Election Forms and Instructions," Iowa Administrative Code. In order to receive oral comments concerning **ARC 6341C**, the Secretary of State hereby gives notice that a public hearing will be held as follows:

August 12, 2022
10 a.m. to 12 noon

Iowa Capitol Building
Room 22
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 Secretary of State and advise of specific needs.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 49.44.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2021 Iowa Acts, chapter 185.

Purpose and Summary

The purpose of the proposed subrule is to provide voters and other interested persons with the opportunity to review the summary to be printed on the ballot for the proposed constitutional amendment that is to be voted upon at the November 8, 2022, General Election. The role of the summary language is to simply provide a summarization of the full text of the constitutional amendment. The full text of the constitutional amendment will be available to voters pursuant to Iowa Code sections 49.44 and 52.25 in exactly the same format in which it was passed by both the 88th and 89th General Assemblies.

The only purpose for this Notice is to solicit public comments. Following the comment period, the Notice will be terminated without adopting the subrule.

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 6341C**.

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 6403C**VETERINARY MEDICINE BOARD[811]****Notice of Intended Action****Proposing rule making related to veterinarian/client/patient relationships
and providing an opportunity for public comment**

The Board of Veterinary Medicine hereby proposes to amend Chapter 1, “Description of Organization and Definitions,” and Chapter 12, “Standards of Practice,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 169.5.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 169.5.

Purpose and Summary

Some of the requirements for a veterinarian/client/patient relationship (VCPR), including a veterinarian’s responsibilities in an emergency setting, were previously set forth in the American Veterinary Medical Association’s document, referenced in the rules, titled Principles of Veterinary Medical Ethics. The Board removed references to the document and adopted its own ethics rules in a separate rule making, **ARC 6212C**, IAB 2/23/22, which became effective on March 30, 2022. The rule requires a VCPR before a veterinarian may provide medical care or prescribe medications to a patient.

The Board adopted additional amendments to the VCPR requirements on December 30, 2021, in **ARC 6171C**, IAB 2/9/22, which require a physical examination of the patient or visits to the premises within the past 12 months to establish a VCPR. The Administrative Rules Review Committee (ARRC), at its March 7, 2022, meeting, delayed the effective date of that rule making by 70 days from April 1, 2022, to June 10, 2022.

This rule making addresses public comments made during these previous two rule makings and at Board meetings. Currently, a VCPR is established when three criteria are met. This rule making clarifies and addresses the responsibilities of veterinarians who provide services in an emergency setting, which were previously explained in the rule-referenced document. This rule making defines “emergency,” “physical examination,” and “premises.” It also clarifies and revises two of the criteria to allow a VCPR for groups of animals and allows a licensed veterinarian with a VCPR to designate another licensed veterinarian to consult or provide back-up care. This rule making establishes an applicability date to avoid retroactive application of the 12-month requirement as required in **ARC 6171C**.

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 811—Chapter 14.

VETERINARY MEDICINE BOARD[811](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 Board no later than 4:30 p.m. on August 2, 2022. Comments should be directed to:

Colin Tadlock
Iowa Department of Agriculture and Land Stewardship
Wallace State Office Building
502 East 9th Street
Des Moines, Iowa 50319
Phone: 515.281.7808
Email: colin.tadlock@iowaagriculture.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 6397C**, IAB 7/13/22). 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 6398C

REVENUE DEPARTMENT[701]**Adopted and Filed Emergency****Rule making related to permits, filing returns, and payments of sales and use taxes**

The Revenue Department hereby rescinds Chapter 12, “Filing Returns, Payment of Tax, Penalty and Interest,” Chapter 13, “Permits,” Chapter 28, “Definitions,” Chapter 29, “Certificates,” and Chapter 30, “Filing Returns, Payment of Tax, Penalty, and Interest”; amends Chapter 42, “Adjustments to Computed Tax and Tax Credits,” Chapter 52, “Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits,” Chapter 67, “Administration,” Chapter 81, “Administration,” Chapter 97, “State-Imposed Water Service Excise Tax,” and Chapter 103, “State-Imposed and Locally Imposed Hotel and Motel Taxes”; adopts new Chapter 201, “Sales and Use Tax Permits,” and Chapter 202, “Filing Returns and Payment of Tax”; amends Chapter 215, “Remote Sales and Marketplace Sales”; and adopts new Chapter 258, “Refunds for Eligible Businesses Under Economic Development Authority Programs,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 421.14 and 2022 Iowa Acts, Senate File 2367.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 423.

Purpose and Summary

Pursuant to 2022 Iowa Acts, Senate File 2367, the Iowa Department of Revenue is replacing its existing chapters of rules related to permits, filing returns, and payments of sales and use taxes in this rule making. Overall, new Chapters 201 and 202 are modeled on current Chapters 13 and 12, respectively, but there are a few notable updates and additions.

The Department will no longer refer to different use tax obligations as “consumer’s use tax” and “retailer’s use tax”; those terms are being replaced by references to “purchases subject to use tax” and “sales subject to use tax,” respectively. This change will be reflected on the revised sales and use tax return, available for tax periods starting on or after July 1, 2022, and will be incorporated into the Department’s informal guidance.

New subrule 201.1(4) establishes a threshold by which the Department expects a taxpayer to obtain a permit to remit use tax instead of filing the nonpermit use tax return. Subrule 201.2(3) reflects current practice related to retroactive or backdated permits and filing and payment obligations for those prior tax periods. Subrule 201.2(5) reflects current practice regarding seasonal permits and adjusts the amount of tax periods in which a taxpayer may file as a seasonal filer to reflect the change from quarterly to monthly tax periods. Rules 701—201.4(423) and 701—201.6(423) relating to reinstatement of canceled permits and changes of locations are updated from their predecessors in Chapter 13 to reflect current practice.

Rule 701—202.1(423) implements the return filing and tax payment frequency changes from 2022 Iowa Acts, Senate File 2367. Rule 701—202.2(423) explains how a taxpayer should complete the new combined sales and use tax return to accurately report which tax type is being reported. Rule 701—202.3(423) establishes proper methods for remitting tax based on filing frequency. Citations in new rule 701—202.4(423) lead to an Iowa Code section that is enacted by 2022 Iowa Acts, House File 2552, which is not yet codified in the online Iowa Code. Subrule 202.5(3) requires a taxpayer filing a consolidated sales tax schedule to file that return electronically. Subrule 202.11(4) reflects current practice regarding refund claims for use tax.

Rather than retain a rule in a chapter about filing returns, the Department is moving rule 701—12.19(15) related to refunds for businesses approved for various Iowa Economic Development

REVENUE DEPARTMENT[701](cont'd)

Authority programs into its own new Chapter 258. Rule 701—97.8(423G) related to filing frequency for water service excise tax is updated to reflect the changes made in Senate File 2367. The remaining items update related cross-references.

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

Pursuant to Iowa Code section 17A.4(3), the Department finds that notice and public participation are unnecessary or impractical because statute so provides. Sections 38 and 39 of 2022 Iowa Acts, Senate File 2367, provide session law authority to adopt these rules on an emergency basis immediately upon enactment of the bill.

Reason for Waiver of Normal Effective Date

Pursuant to Iowa Code section 17A.5(2)“b”(1)(a), the Department 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 July 1, 2022, because 2022 Iowa Acts, Senate File 2367, sections 38 and 39, provide session law authority to adopt these rules on an emergency basis immediately upon enactment of the bill.

Adoption of Rule Making

This rule making was adopted by the Department on June 17, 2022.

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 701—7.28(17A).

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 July 1, 2022.

The following rule-making actions are adopted:

REVENUE DEPARTMENT[701](cont'd)

ITEM 1. Rescind and reserve **701—Chapter 12.**

ITEM 2. Rescind and reserve **701—Chapter 13.**

ITEM 3. Rescind and reserve **701—Chapter 28.**

ITEM 4. Rescind and reserve **701—Chapter 29.**

ITEM 5. Rescind and reserve **701—Chapter 30.**

ITEM 6. Amend paragraph **42.53(2)“a”** as follows:

a. *Sales tax refund.* A housing business may claim a refund of the sales and use tax described in rule ~~701—12.19(15)~~ 701—258.1(15).

ITEM 7. Amend paragraph **52.46(2)“a”** as follows:

a. *Sales tax refund.* A housing business may claim a refund of the sales and use tax described in rule ~~701—12.19(15)~~ 701—258.1(15).

ITEM 8. Amend subrule 67.23(3) as follows:

67.23(3) Denial of a license. The department may deny a license to any applicant who is, at the time of application, substantially delinquent in paying any tax due which is administered by the department or the interest or penalty on the tax and will deny a permit of an individual if the department has received a certificate of noncompliance from the child support recovery unit in regard to an individual. If the applicant is a partnership, a license may be denied if a partner is substantially delinquent in paying any tax, penalty, or interest regardless of whether the tax is in any way a liability of or associated with the partnership. If an applicant for a license is a corporation, the department may deny the applicant a license if any officer with a substantial legal or equitable interest in the ownership of the corporation owes any delinquent tax, penalty, or interest of the applicant corporation. ~~See rule 701—13.16(422) for~~ Rule 701—201.10(423) contains a characterization of the terms “tax administered by the department” and “substantially delinquent” in paying a tax. If the application for a license is denied, see rule 701—7.23(17A) for Rule 701—7.9(17A) contains information about rights to appeal denial of an application for a license.

ITEM 9. Amend subrule 67.23(4) as follows:

67.23(4) Revocation of a license. The department may revoke the license of any licensee who becomes substantially delinquent in paying any tax which is administered by the department or the interest or penalty on the tax and will revoke a license of an individual if the department has received a certificate of noncompliance from the child support recovery unit in regard to an individual. If a licensee is a corporation, the department may revoke the license if any officer with a substantial legal or equitable interest in the ownership of the corporation owes any delinquent tax, penalty, or interest of the applicant corporation. If the licensee is a partnership, the license may not be revoked for a partner’s substantial delinquency in paying any tax, penalty, or interest which is not a liability of the partnership. ~~See rule 701—13.16(422) for~~ Rule 701—201.10(423) contains characterizations of the terms “tax administered by the department” and “substantially delinquent” in paying a tax. The department may also revoke the license of any licensee who abuses the privileges for which the license was issued, who files a false return, or who fails to file a return (including supporting schedules), pay the full amount of tax due, produce records requested, or extend cooperation to the department. See rule 701—7.55(17A) for Rule 701—7.9(17A) contains more information about rights to appeal.

ITEM 10. Amend subrule 81.13(2) as follows:

81.13(2) Denial of application for permit. The department may deny a permit to any applicant who is, at the time of application, substantially delinquent in paying any tax due which is administered by the department or the interest or penalty on the tax. If the applicant is a partnership, a permit may be denied if a partner is substantially delinquent in paying any tax, penalty, or interest regardless of whether the tax is in any way a liability of or associated with the partnership. If an applicant for a permit is a corporation, the department may deny the applicant a permit if any officer, with a substantial legal or equitable interest in the ownership of the corporation, owes any delinquent tax, penalty, or interest of the applicant corporation. In this latter instance, the corporation must, initially, owe the delinquent tax,

REVENUE DEPARTMENT[701](cont'd)

penalty, or interest, and the officer must be personally and secondarily liable for the tax. This is in contrast to the situation regarding a partnership. ~~See rule 701—13.16(422) for~~ Rule 701—201.10(423) contains characterizations of the terms “tax administered by the department” and “substantially delinquent” in paying a tax. ~~This subrule is applicable to tax, interest, and penalty due and payable on and after January 1, 1987.~~

The director will deny a permit to any applicant, who is an individual, if the department has received a certificate of noncompliance from the child support recovery unit in regard to the individual, unless the unit furnishes the department with a withdrawal of the certificate of noncompliance.

ITEM 11. Amend subrule 81.13(3) as follows:

81.13(3) *Revocation of a permit.* The department may revoke the permit of any permit holder who becomes substantially delinquent in paying any tax which is administered by the department or the interest or penalty on the tax. If the permit holder is a corporation, the department may revoke the permit if any officer, with a substantial legal or equitable interest in the ownership of the corporation, owes any delinquent tax, penalty, or interest of the applicant corporation. In this latter instance, the corporation must, initially, owe the delinquent tax, penalty, or interest, and the officer must be personally and secondarily liable for the tax. If the permit holder is a partnership, a permit cannot be revoked for a partner’s substantial delinquency in paying any tax, penalty, or interest which is not a liability of the partnership. ~~See rule 701—13.16(422) for~~ Rule 701—201.10(423) contains characterizations of the terms “tax administered by the department” and “substantially delinquent” in paying a tax. ~~This subrule is applicable to tax, interest, and penalty due and payable on and after January 1, 1987.~~

The department will revoke the permit of any permit holder, who is an individual, if the department has received a certificate of noncompliance from the child support recovery unit in regard to the individual, unless the unit furnishes the department with a withdrawal of the certificate of noncompliance.

ITEM 12. Amend rule 701—97.8(423G) as follows:

701—97.8(423G) Filing returns; payment of tax; ~~penalty and interest.~~

97.8(1) *Application of 701—Chapter 12* 701—Chapter 202. The requirements of 701—Chapter 12 701—Chapter 202 shall apply to water utilities in the same manner that those requirements apply to all sellers and retailers making sales subject to state sales tax.

97.8(2) *Frequency of ~~deposit~~ return filing and payment of tax based on combined water service excise tax and sales and use tax.* With respect to the tax thresholds used for determining whether a retailer must file a return and remit sales and use tax ~~semimonthly, monthly, quarterly, or annually~~, as described in rule ~~701—12.13(422)~~ 701—202.1(423), the threshold for determining how frequently a water utility must file a return and remit the water service excise tax shall be based on the sum of the total amount of sales and use tax collected and the total amount of water service excise tax collected.

~~EXAMPLE: Prior to the imposition of the water service excise tax, a water utility collected \$70,000 in sales tax per year. Pursuant to 701—subrule 12.13(2), the water utility filed its sales tax deposits with the department on a semimonthly basis. Following the imposition of the water service excise tax, the water utility now collects \$35,000 in sales tax per year and \$35,000 in water service excise tax per year. The combined sum of the water utility’s monthly collected sales tax and water service excise tax is \$70,000. Therefore, the water utility will continue to make semimonthly deposits.~~

This rule is intended to implement Iowa Code section 423G.5.

ITEM 13. Amend subrule 97.9(1) as follows:

97.9(1) *Application of 701—Chapter 13* 701—Chapter 201. The requirements of 701—Chapter 13 701—Chapter 201 shall apply to water utilities in the same manner that those requirements apply to all sellers and retailers making sales subject to state sales tax.

ITEM 14. Amend subrule 103.4(1) as follows:

103.4(1) *Incorporation of 701—Chapter 12* 701—Chapter 202. Except as otherwise stated in this chapter, the requirements of 701—Chapter 12 701—Chapter 202 shall apply to retailers required to

REVENUE DEPARTMENT[701](cont'd)

collect hotel and motel tax in the same manner that those requirements apply to all sellers and retailers making sales subject to state sales tax.

ITEM 15. Amend subrule 103.5(1) as follows:

103.5(1) *Incorporation of 701—Chapter 13 701—Chapter 201.* Except as otherwise stated in this chapter, the requirements of ~~701—Chapter 13~~ 701—Chapter 201 shall apply to retailers required to collect hotel and motel tax in the same manner that those requirements apply to all sellers and retailers making sales subject to state sales tax.

ITEM 16. Adopt the following new 701—Chapter 201:

CHAPTER 201
SALES AND USE TAX PERMITS

701—201.1(423) Permit required.

201.1(1) *Sales subject to sales tax.* A person shall not make taxable sales of tangible personal property, specified digital products, or services until the person has received a permit from the department. There is no charge for a sales and use tax permit. If a person makes retail sales from more than one location, each location from which taxable sales of tangible personal property, specified digital products, or services will occur shall be required to hold a permit.

201.1(2) *Purchases subject to use tax.* A person purchasing tangible personal property, specified digital products, or taxable services from an out-of-state source for use in Iowa subject to the use tax law shall be liable for the payment of use tax. The person shall be required to file a sales and use tax return with the department, reporting and remitting use tax on all property or taxable service purchased for use in Iowa during the tax period covered by the return, unless the seller from whom the purchase is made is registered with the department and has collected sales or use tax on the purchase.

201.1(3) *Sales subject to use tax.* An out-of-state person making sales into Iowa or sales of tangible personal property, specified digital products, or taxable services without meeting or exceeding the sales threshold as defined in rule 701—215.1(423) may register for a sales and use tax permit to collect use tax on such sales. The person collecting use tax on these sales shall report these sales as sales subject to use tax on the sales and use tax return. Rule 701—215.6(423) contains additional information about sales tax collection obligations for out-of-state persons.

201.1(4) *Infrequent purchases.* A person who does not regularly make purchases subject to use tax but needs to remit tax may use the Iowa nonpermit use tax return. If a person owes less than \$1,200 per year in use tax, the person does not need to obtain a permit and may file the Iowa nonpermit use tax return.

This rule is intended to implement Iowa Code section 423.36.

701—201.2(423) Application for permit.

201.2(1) *Permit application.* An application for a sales and use tax permit shall be made upon a form provided by the department, and the applicant shall furnish all information requested on such form. An application for a permit for a business operating under a trade name shall state the trade name, as well as the individual owner's name, in the case of a sole ownership by an individual, or the trade name and the name of all partners in the case of a partnership. The application shall state the date when the applicant will begin selling tangible personal property, specified digital products, or taxable services at retail in Iowa from the location for which the application is made.

201.2(2) *Signatures required.*

a. Paper applications. The application shall be signed by the owner, in the case of an individual business; by a partner, in the case of a partnership, although all partners' names shall appear on the application; and by the president, vice president, treasurer or other principal officer, in the case of a corporation or association, unless written authorization is given by the officers for another person to sign the application.

REVENUE DEPARTMENT[701](cont'd)

b. Electronic applications. For electronically transmitted applications, the application form shall state that in lieu of a person's handwritten signature, an email address will constitute a valid signature.

201.2(3) Retroactive permits and returns for prior periods. A person may indicate on a permit application that the effective date of the permit is in a prior tax period. Returns must be filed for all prior tax periods dating back to the effective date of the permit. Penalty and interest may apply and be imposed by the department for returns filed for those prior tax periods. 701—Chapter 10 contains more information about penalties and interest. Submission of a retroactive permit application makes a person ineligible for a voluntary disclosure agreement for those prior tax periods. 701—Chapter 3 contains more information about the voluntary disclosure program.

201.2(4) Address only required for retail sales locations. If a person is subject to sales tax and has physical presence or economic presence and is not making sales exclusively through a marketplace facilitator, the person shall provide a location for its sales and use tax permit.

201.2(5) Seasonal filers. A seasonal business retailer with sales in up to four months during the calendar year may register to file a return and remit tax as a seasonal filer. The retailer will be expected to only file returns for the specific months in which the retailer conducts business as indicated by the retailer upon registration. The retailer will not be expected to file a return or remit tax for the other months of the year. Like any other retailer, the seasonal retailer must still notify the department when it ceases operation permanently; if it does not, it will receive a nonfiler notice from the department.

EXAMPLE: Retailer A plans to start selling Christmas trees annually starting in 2022. Retailer A only plans to sell trees in November and December each year. Retailer A may request to be designated as a seasonal filer such that it only is required to file returns for November and December each year. Retailer A fails to file a sales and use tax return for November 2029. Retailer A will receive a notice from the department even if Retailer A stopped selling trees after 2028.

This rule is intended to implement Iowa Code section 423.36.

701—201.3(423) Retailers selling nontaxable goods and services. Persons regularly engaged in selling tangible personal property or a specified digital product which is exempt from tax, making nontaxable transactions, or performing a service which is not enumerated in Iowa Code section 423.2 shall not be required to obtain a sales tax permit. However, if the retailer makes taxable sales or provides taxable services, the retailer will be required to hold a permit under the provisions of this chapter and Iowa Code section 423.36.

This rule is intended to implement Iowa Code section 423.36.

701—201.4(423) Reinstatement of canceled permit. A person who previously held and canceled a permit who wishes to reengage in business shall apply to the department for a new permit and file any previously unfiled tax returns. Upon receipt of the proper clearance for previous tax returns, a new permit shall be issued.

This rule is intended to implement Iowa Code section 423.36.

701—201.5(423) Permit not transferable—sale of business. Permits shall not be transferable. The owner of a business holding a permit that sells the business shall cancel the permit, and the purchaser of the business shall apply for a new permit in the purchaser's own name.

This rule is intended to implement Iowa Code section 423.36.

701—201.6(423) Change of location. A business changing its location shall cancel its original permit and apply for a new permit.

This rule is intended to implement Iowa Code section 423.36.

701—201.7(423) Change of ownership. A retailer changing its business entity shall apply for a new permit under the name of the new entity. This includes but is not limited to such entity changes as proprietorship to partnership, partnership to corporation, or any combination thereof.

This rule is intended to implement Iowa Code section 423.36.

REVENUE DEPARTMENT[701](cont'd)

701—201.8(423) Change of legal or operating name of a business.

201.8(1) *Change to legal name.* A retailer changing its legal name but maintaining its ownership may continue to use its existing sales and use tax permit. The retailer shall notify the department of the change in legal name and shall provide legal documentation proving the change in name before the department will change the legal name for the permit.

201.8(2) *Change to operating name.* A retailer changing its operating, or “doing business as,” name may continue using its existing sales and use tax permit. The retailer shall notify the department of the change in operating name. No documentation is required for the department to update the operating name associated with the permit.

This rule is intended to implement Iowa Code section 423.36.

701—201.9(423) Trustees, receivers, executors and administrators. By virtue of their appointment, trustees, receivers, executors and administrators who continue to operate, manage or control a business involving the sale of tangible personal property, specified digital products, or taxable services or engage in liquidating the assets of a business by means of sales made in the usual course of trade shall collect and remit tax on inventory and noninventory items. A permit of a ward, decedent, cestui que trust, bankrupt, assignor or debtor for whom a receiver has been appointed, which is valid at the time a fiduciary relation is created, shall continue to be a valid permit for the fiduciary to continue the business for a reasonable time or to close out the business for the purpose of settling an estate or terminating or liquidating a trust.

This rule is intended to implement Iowa Code section 423.36.

701—201.10(423) Substantially delinquent tax—denial of permit.**201.10(1) *Substantial delinquency of tax.***

a. Applicant identity. The department may deny a permit to any applicant who is, at the time of application, substantially delinquent in paying any tax due which is administered by the department or the interest or penalty on the tax. If the applicant is a partnership, a permit may be denied if a partner is substantially delinquent in paying any tax, penalty, or interest regardless of whether the tax is in any way a liability of or associated with the partnership. If an applicant for a permit is a corporation, the department may deny the applicant a permit if any officer with a substantial legal or equitable interest in the ownership of the corporation owes any delinquent tax, penalty, or interest of the applicant corporation. In this latter instance, the corporation must initially owe the delinquent tax, penalty, or interest and the officer must be personally and secondarily liable for the tax. This is in contrast to the situation regarding a partnership.

b. Tax administered by the department. The local option sales tax is a tax administered by the department. Local vehicle; property, whether imposed on centrally assessed property or not; beer and liquor; and insurance premium taxes are nonexclusive examples of taxes which are not administered by the department.

201.10(2) *Substantial delinquency factors.* The amount of tax delinquent, the number of filing periods for which a tax remains due and unpaid, and the length of time a tax has been unpaid are the principal, but nonexclusive circumstances, that the department will use to determine whether an applicant is substantially or insubstantially delinquent in paying a tax. The department may deny a permit for substantial delinquency. Nonexclusive factors that the department will consider in determining whether substantial delinquency will or will not result in the denial of an application for a permit are the following: whether the delinquency was inadvertent, negligent, or intentional; the amount of tax, interest, or penalty owed in relation to the applicant’s total financial resources; and whether the applicant’s business is likely to survive over the long term if a license or permit is granted.

201.10(3) *Child support noncompliance.* The department will deny a permit to any applicant, who is an individual, if the department has received a certificate of noncompliance from the child support recovery unit in regard to the individual, until the unit furnishes the department with a withdrawal of the certificate of noncompliance.

This rule is intended to implement Iowa Code section 423.36.

REVENUE DEPARTMENT[701](cont'd)

701—201.11(423) Substantially delinquent tax—revocation of permit.

201.11(1) *Substantial delinquency of tax.* The department may revoke a permit if the permit holder has become substantially delinquent in paying any tax which is administered by the department or the interest or penalty on the tax. If the person holding a permit is a corporation, the department may revoke the permit if any officer with a substantial legal or equitable interest in the ownership of the corporation owes any delinquent tax, penalty, or interest of the permit-holding corporation. In this latter instance, the corporation must initially owe the delinquent tax, penalty, or interest and the officer must be personally and secondarily liable for the tax. If the permit holder is a partnership, a permit cannot be revoked for a partner's failure to pay a tax which is not a liability of the partnership. This is in contrast to the situation regarding an application for a permit. Rule 701—201.10(423) contains characterizations of the terms "tax administered by the department" and "substantially delinquent" and a description of some of the factors that the department will use in determining whether substantial delinquency will or will not result in the revocation of a permit.

201.11(2) *Child support noncompliance.* A revoked permit will not be reinstated if the department has received a certificate of noncompliance from the child support recovery unit in regard to the permit holder who is an individual requesting reinstatement, until the unit furnishes the department with a withdrawal of the certificate of noncompliance.

This rule is intended to implement Iowa Code section 423.36.

701—201.12(423) Reinstatement of revoked permit.

201.12(1) A revoked permit shall be reinstated only on such terms and conditions as the case may warrant. Terms and conditions include payment of any tax liability that may be due to the department. Rule 701—201.11(423) includes a description of the circumstances under which nonpayment of taxes may lead to revocation of a permit.

201.12(2) Pursuant to the director's statutory authority in Iowa Code section 423.36(6) to restore licenses after a revocation, the director has determined that upon the initial revocation of a sales and use tax permit, the permit holder will be required to pay all delinquent sales tax liabilities, to file returns, and to post a bond and to refrain from taxable occurrences under Iowa Code section 423.2 as required by the director prior to the reinstatement or issuance of a new sales tax permit.

201.12(3) As set forth above, the director may impose a waiting period during which the permit holder must refrain from taxable occurrences pursuant to the penalties of Iowa Code section 423.40, not to exceed 90 days, to restore a permit or issue a new permit after a revocation. The department may require a sworn affidavit, subject to the penalties of perjury, stating that the permit holder has fulfilled all requirements of said order of revocation, and stating the dates on which the permit holder refrained from taxable occurrences.

201.12(4) Each of the following situations will be considered one offense, for the purpose of determining the waiting period to reinstate a revoked permit or issue a new permit after a revocation unless otherwise noted.

- a. Failure to post a bond as required.
- b. Failure to file a return timely.
- c. Failure to pay tax timely (including dishonored checks, failure to pay, and late payments).
- d. Failure to file a return and pay tax shown on the return timely (counts as two offenses).

201.12(5) The administrative law judge or director of revenue may order a waiting period after the revocation not to exceed:

- a. Five days for one through five offenses.
- b. Seven days for six through seven offenses.
- c. Ten days for eight through nine offenses.
- d. Thirty days for ten offenses or more.

201.12(6) The administrative law judge or director of revenue may order a waiting period not to exceed:

- a. Forty-five days if the second revocation occurs within 24 months of the first revocation.
- b. Sixty days if the second revocation occurs within 18 months of the first revocation.

REVENUE DEPARTMENT[701](cont'd)

- c. Ninety days if the second revocation occurs within 12 months of the first revocation.
- d. Ninety days if the third revocation occurs within 36 months of the second revocation.

201.12(7) A revoked permit will not be reinstated if the department has received a certificate of noncompliance from the child support recovery unit in regard to the permit holder, who is an individual requesting reinstatement, until the unit furnishes the department with a withdrawal of the certificate of noncompliance.

This rule is intended to implement Iowa Code sections 423.2, 423.36, and 423.40.

701—201.13(423) Withdrawal of permit. After investigation, the department will withdraw a permit under the following conditions:

201.13(1) Upon a determination that the permit holder cannot be located in the state of Iowa and upon failure to obtain service of an order to appear and show cause, after sending the notice by registered certified mail or an attempt to personally serve the notice of the order.

201.13(2) Upon a determination that the permit holder cannot be located in the state of Iowa and upon a determination by the department that a business has been terminated or abandoned by the permit holder, without a request for cancellation signed by the permit holder.

201.13(3) The permit holder has become incapacitated or unable to respond or is deceased and has no duly appointed trustee, guardian or individual holding a power of attorney, executor or administrator. The withdrawal shall not constitute a revocation of said license, nor shall any penalties imposed for revocation be applicable. A permit so withdrawn shall be reissued in its prior status at such time as any affected permit holder so requests. The proceedings for withdrawal will be in conformity with Iowa Code section 17A.18.

This rule is intended to implement Iowa Code section 17A.18.

ITEM 17. Adopt the following new 701—Chapter 202:

CHAPTER 202
FILING RETURNS AND PAYMENT OF TAX

701—202.1(423) Sales and use tax return filing.

202.1(1) *In general.* A retailer owing \$1,200 or more in sales or use tax per calendar year shall file a sales and use tax return once per month. This monthly return is due on or before the last day of the month following the end of the month in which the tax was collected. A retailer owing less than \$1,200 in sales or use tax per calendar year shall file a sales and use tax return at least once per annual year, due on or before January 31 for the prior calendar year. A retailer otherwise expected to file a return annually may file a return on a monthly basis if the retailer prefers to do so. Every return shall be signed and dated.

202.1(2) *New retailers.* A retailer who has never held an Iowa sales or use tax permit and has never collected or accrued sales or use tax in Iowa shall indicate at the time the retailer registers for its permit whether it expects to file a return monthly or annually.

202.1(3) *Changes to filing frequency.* A retailer registered to file an annual sales and use tax return should update its return filing frequency as needed. The department may adjust a retailer's filing frequency if the retailer has remitted \$1,200 or more in its first year of operation in Iowa and the department has notified the retailer that it meets or exceeds the filing threshold.

202.1(4) *Calculating the \$1,200 filing frequency threshold.* The threshold for determining whether a retailer should file a monthly or an annual sales and use tax return shall be calculated by adding sales and use taxes due in a calendar year. Other excise taxes should not be included in the calculation, even though they may be reported on the sales and use tax return.

202.1(5) *Electronic filing requirement and exception.* Retailers required to file a monthly sales and use tax return shall file the return through GovConnectIowa. A retailer who is unable to file a return electronically may request permission from the director to file a paper return. A retailer requesting such permission shall provide proof of its inability to file electronically.

REVENUE DEPARTMENT[701](cont'd)

202.1(6) Simplified electronic return due date. A retailer registered to collect Iowa tax through the Streamlined Sales Tax Registration System shall file a simplified electronic return on or before the twentieth day of each month following the end of the month in which the tax was collected. Any other retailer using the simplified electronic return shall file the return on or before the last day of the month following the end of the month in which the tax was collected.

This rule is intended to implement Iowa Code section 423.31.

701—202.2(423) Reporting sales or use taxes. A taxpayer with a reporting obligation for either sales tax or use tax but not both shall indicate on the sales and use tax return that it has no tax to report for the appropriate tax type. A taxpayer does this by making the appropriate indication on an electronic return or by entering a zero on the taxable amount line in the tax section of a paper return for which the taxpayer does not have tax to report. A taxpayer who fails to do so will be treated as not reporting for that tax type.

EXAMPLE: Retailer B holds a sales and use tax permit and files a monthly return. Retailer B does not owe any use tax for the July 2023 tax period. After entering information related to sales tax liability for the period, Retailer B must affirmatively state it has no use tax to report in the use tax section of its electronic return for the July 2023 tax period.

This rule is intended to implement Iowa Code section 423.31.

701—202.3(423) Sales and use tax remittance. Sales or use tax owed by a retailer shall accompany the sales and use tax return for the period in which the tax became due. Retailers filing a monthly sales and use tax return electronically shall remit tax electronically. Retailers filing a paper return may remit tax by mail, payable to the Iowa Department of Revenue. Remittances transmitted electronically are considered to have been made on the date the remittance is completed in GovConnectIowa.

This rule is intended to implement Iowa Code section 423.31.

701—202.4(423) Due dates, weekends, and holidays. Due dates that fall on a Saturday, Sunday, or holiday shall be treated in accordance with Iowa Code section 421.9A. Iowa Code section 421.9A contains a definition of “holiday.”

This rule is intended to implement Iowa Code section 421.9A.

701—202.5(423) Consolidated returns. Two types of permit holders have the option of filing a consolidated return. The first is a permit holder with multiple locations from which taxable sales are made, and the second is certain affiliated corporations.

202.5(1) Permit holders with multiple locations.

a. Permit holder option. A permit holder procuring more than one permit may file a separate return for each permit or, if a request to consolidate has been approved by the department pursuant to this rule, the permit holder may file one consolidated return reporting sales made at all locations for which a permit is held.

b. Filing a consolidated return.

(1) In order to file a complete consolidated sales tax return, the taxpayer must file a form entitled Schedule of Consolidated Business Locations with its sales and use tax return, and the schedule must include all of the following items:

1. The taxpayer's consolidated permit number;
2. The permit number for each Iowa location;
3. The amount of state sales tax by business location; and
4. The amount of state sales tax due on goods consumed that are not assigned to a specific business location.

(2) Failure by the taxpayer to file a Schedule of Consolidated Business Locations form with its sales and use tax return will result in the consideration of the return as incomplete, and the taxpayer will be subject to the penalty provisions set forth in Iowa Code section 421.27.

202.5(2) Affiliated corporations.

REVENUE DEPARTMENT[701](cont'd)

a. Application by affiliate group. Any group consisting of a parent and its affiliates, which is entitled to file a consolidated return for federal income tax purposes and which makes retail sales of tangible personal property, specified digital products, or taxable services, may make application to the director for permission to file a consolidated Iowa sales tax return. The application shall be in writing and shall be signed by an officer of the parent corporation. It shall contain the business name, address, federal identification number, and Iowa sales tax identification number of every corporation seeking the right to file a consolidated return. The application shall state the initial tax period for which the right to file a consolidated return is sought and shall be filed no later than 90 days prior to the beginning of that period. The application shall also contain any additional relevant information that the director may, in individual instances, require.

b. Joint and several liability. A parent corporation and each affiliate corporation that file a consolidated return are jointly and severally liable for all tax, penalty, and interest found due for the tax period for which a consolidated return is filed or required to be filed.

202.5(3) Requirements common to returns filed under this rule. The following provisions apply to permit holders filing consolidated returns pursuant to either subrule 202.5(1) or 202.5(2):

a. Proper form. Taxpayers shall file consolidated returns through GovConnectIowa.

b. Working papers. All working papers used in the preparation of the information required to complete the returns must be available for examination by the department.

c. Offsetting collections among affiliates. Undercollections of sales tax at one or more locations or by one or more affiliates may not be offset by overcollections at other locations or by other affiliates.

This rule is intended to implement Iowa Code section 423.31.

701—202.6(423) Direct pay permits and negotiated rate agreements.

202.6(1) Direct pay permits in general. Qualified purchasers, users, and consumers of tangible personal property, specified digital products, or taxable services pursuant to Iowa Code chapter 423 may remit tax owed directly to the department instead of having the tax collected and remitted by the seller. A qualified purchaser, user, or consumer may not be granted or exercise this direct pay option except upon proper application to the department and only after issuance of the direct pay permit by the director of the department or personnel authorized by the director.

a. Qualifications for a direct pay permit. To qualify for a direct pay permit, all of the following criteria must be met:

(1) The applicant must be a purchaser, user, or consumer of tangible personal property, specified digital products, or taxable services.

(2) The applicant must have an accrual of sales and use tax liability on consumed goods of more than \$8,000 in a month. A purchaser, user, or consumer may have more than one business location and can combine the sales and use tax liabilities on consumed goods of all locations to meet the requirement of \$8,000 in sales and use tax liability in a month to qualify if the records are located in a centralized location. If a purchaser, user, or consumer is combining more than one location, only one direct pay tax return for all of the combined locations needs to be filed with the department. However, local option sales tax should not be included in the tax base for determining qualification for a direct pay permit. If a purchaser, user, or consumer has more than one location, but not all locations wish to remit under a direct pay permit, the purchaser, user, or consumer must indicate which locations will be utilizing the direct pay permit at the time of application.

(3) The applicant must remit tax and file returns pursuant to Iowa Code section 423.36. Paragraph 202.6(1) “d” contains further details.

b. Nonqualifying purchases or uses. The granting of a direct pay permit is not allowed for any of the following:

(1) Taxes imposed on the sale, furnishing, or service of gas, electricity, water, heat, pay television service, or communication service.

(2) Taxes imposed under Iowa Code chapter 423C (automobile rental excise tax), Iowa Code section 423.26 (use tax on vehicles subject only to issuance of title), or Iowa Code section 423.26A (use tax on manufactured housing).

REVENUE DEPARTMENT[701](cont'd)

c. Application and permit information. To obtain a direct pay permit, a purchaser, user, or consumer must properly complete an application form prescribed by the director and provide certification that the purchaser, user, or consumer has paid sales and use tax to the department or vendors over the last two years prior to application, an average of \$8,000 in a month. Upon approval, the director or personnel authorized by the director will issue a direct pay permit to qualifying applicants. The permit will contain direct pay permit identifying information including a direct pay permit identification number. The direct pay permit should be retained by the permit holder. When purchasing from a vendor, a permit holder should give the vendor a certificate of exemption containing the information as set forth in rule 701—15.3(423).

d. Remittance and reporting. Direct pay permit holders shall remit and report sales, use, and local option sales tax on a monthly basis. Remittance of tax due under a direct pay permit will begin with the first month after the direct pay permit is issued to the holder. The tax to be paid under a direct pay permit shall be remitted directly to the department by electronic funds transfer (EFT) only. A permit holder need not have remitted by EFT prior to obtaining a direct pay permit to qualify for such a permit. However, a permit holder must remit taxes due by EFT for transactions entered into on or after the date the permit is issued. All local option sales tax due must be reported and remitted at the same time as the sales and use taxes due under the direct pay permit for the corresponding tax period. However, local option sales tax should not be included in the tax base for determining qualification for a direct pay permit or frequency of remittance. Reports should be filed with the department on a monthly basis. The director may, when necessary and advisable in order to secure the collection of tax due, require an applicant for a direct pay permit or a permit holder to file with the director a qualified surety bond as set forth in Iowa Code section 423.35. A permit holder who fails to report or remit any tax when due is subject to the penalty and interest provisions set forth in Iowa Code section 421.27.

e. Permit revocation and nontransferability. A direct pay permit may be used indefinitely unless it is revoked by the department. A direct pay permit is not transferable and may not be assigned to a third party. The department may revoke a direct pay permit at any time the permit holder fails to meet the requirements for a direct pay permit, misuses the direct pay permit, or fails to comply with the provisions in Iowa Code section 423.36(9). If a direct pay permit is revoked, it is the responsibility of the prior holder of the permit to inform all vendors of the revocation so the vendors may begin to collect tax at the time of purchase. A prior permit holder is responsible for any tax, penalty, and interest due for failure to notify a vendor of revocation of a direct pay permit.

f. Record-keeping requirements. The parties involved in transactions involving a direct pay permit shall have the following record-keeping duties:

(1) Permit holder. The holder of a direct pay permit must retain possession of the direct pay permit. The permit holder must keep a record of all transactions made pursuant to the direct pay permit in compliance with rule 701—11.4(423).

(2) Vendor. A vendor must retain a valid exemption certificate under rule 701—15.3(423) that is received from the direct pay permit holder and retain records of all transactions engaged in with the permit holder in which tax was not collected, in compliance with rule 701—11.4(423). A vendor's liability for uncollected tax is governed by the liability provisions of a seller under an exemption certificate set forth in rule 701—15.3(423).

202.6(2) Negotiated rate agreements.

a. In general. Any person who has been issued or who has applied for a direct pay permit may request the department to enter into a negotiated rate agreement with the permit holder or applicant. These agreements are negotiated on a case-by-case basis and, if approved by the department, allow a direct pay permit holder to pay the state sales, local option sales, or use tax on a basis calculated by agreement between the direct pay permit holder and the department. Negotiated rate agreements are not applicable to sales and use taxes set out in paragraph 202.6(1) "b," and no negotiated rate agreement is effective for any period during which a taxpayer who is a signatory to the agreement is not a direct pay permit holder.

b. Required information. All negotiated rate agreements shall contain the following information or an explanation for its omission:

REVENUE DEPARTMENT[701](cont'd)

- (1) The name of the taxpayer who has entered into the agreement with the department.
 - (2) The name and title of each person signing the agreement and the name, telephone or fax number, and email or physical address of at least one person to be contacted if questions regarding the agreement arise.
 - (3) The period during which the agreement is in effect, the renewal or extension rights (if any) of each party, and the effective date of the agreement.
 - (4) The negotiated rate or rates, the classes of sales or uses to which each separate rate is applicable, any items that will be excluded from the agreement, and any circumstances that will result in a changed rate or rates or changed composition of classes to which rates are applicable.
 - (5) Actions or circumstances that render the agreement void, or voidable at the option of either party, and the time frame in which the agreement will be voided.
 - (6) Rights, if any, of the parties to resort to mediation or arbitration.
 - (7) An explanation of the department's right to audit aspects of the agreement, including any right to audit remaining after the agreement's termination.
 - (8) The conditions by which the agreement may be terminated and the effective date of the termination.
 - (9) The methodology used to determine the negotiated rate and any schedules needed to verify percentages.
 - (10) Any other matter deemed necessary to the parties' mutual understanding of the agreement.
- This rule is intended to implement Iowa Code section 423.36.

701—202.7(423) Regular permit holders responsible for collection of tax. A permit holder may operate by selling merchandise by trucks, canvassers, or itinerant salespeople over fixed routes within the county in which the permanent place of business is located or other counties in this state. When this occurs, the permit holder is liable for reporting and paying tax on these sales. The person doing the selling for the permit holder shall be required to have a form, either in possession or in the vehicle, which authorizes that person to collect tax. This form is obtained from the department and shall contain the name, address, and permit number of the retailer according to the records of the department.

This rule is intended to implement Iowa Code sections 423.14 and 423.36.

701—202.8(423) Sale of business.

202.8(1) Final return due. A retailer selling the business shall file a return within the succeeding month and pay all tax due. Any unpaid tax shall be due prior to the transfer of title of any personal property to the purchaser, and the tax becomes delinquent one month after the sale.

202.8(2) Record retention. A retailer discontinuing business shall maintain the business's records for a period of five years from the date of discontinuing the business unless a release from this provision is given by the department. 701—subrule 18.28(2) provides for possible sales and use tax consequences relating to the sale of a business.

This rule is intended to implement Iowa Code section 423.33.

701—202.9(423) Bankruptcy, insolvency, or assignment for benefit of creditors. In cases of bankruptcy, insolvency or assignment for the benefit of creditors by the taxpayer, the taxpayer shall immediately file a return with the tax being due.

This rule is intended to implement Iowa Code section 423.31.

701—202.10(423) Vending machines and other coin-operated devices. An operator who places machines on location shall file a return that includes the sales price from sales from all machines or devices operated by the retailer in Iowa during the tax period covered by the return. The mandatory beverage container deposit required under the provisions of Iowa Code chapter 455C shall not be considered part of the sales price.

This rule is intended to implement Iowa Code sections 423.1 and 423.2.

701—202.11(423) Claim for refund of tax.

REVENUE DEPARTMENT[701](cont'd)

202.11(1) *Eligibility for refund; filing claims.* Refunds of tax shall be made only to those who have actually paid the tax. A person or persons may designate the retailer who collects the tax as an agent for purposes of receiving a refund of tax. A person or persons who claim a refund shall prepare the claim on Form IA 843, Refund Return. A claim for refund shall be filed with the department, stating in detail the reasons and facts and, if necessary, supporting documents for which the claim for refund is based.

202.11(2) *Denial of refund claim—appeal.* If the claim for refund is denied, and the person wishes to appeal the denial, the department will consider an appeal to be timely if filed no later than 60 days following the date of denial. Rule 701—7.9(17A) contains more information on appeals.

202.11(3) *Request for abeyance.* When a person is in a position of believing that the tax, penalty, or interest paid or to be paid will be found not to be due at some later date, then in order to prevent the statute of limitations from running out, a claim for refund or credit must be filed with the department within the statutory period provided for in Iowa Code section 423.47. The claim must be filed requesting that it be held in abeyance pending the outcome of any action that will have a direct effect on the tax, penalty, or interest involved. Nonexclusive examples of such action would be court decisions, departmental orders and rulings, and commerce commission decisions.

EXAMPLE A: X, an Iowa sales tax permit holder, is audited by the department for the period July 1, 2014, to June 30, 2017. A \$10,000 tax, penalty, and interest liability is assessed on materials the department determines are not used in processing. X does not agree with the department's position but still pays the full liability even though X is aware of pending litigation involving the materials taxed in the audit.

Y is audited for the same period involving identical materials used to those taxed in the audit of X. However, Y, rather than paying the assessment, takes the department through litigation and wins. The final litigation is not completed until September 30, 2023.

X, on October 1, 2023, upon finding out about the decision of Y's case, files a claim for refund relating to its audit completed in June 2017. The claim will be totally denied as beyond the three-year statute of limitations. However, if X had filed a claim along with payment of its audit in June 2017, and requested that the claim be held in abeyance pending Y's litigation, then X would have received a full refund of its audit liability if the decision in Y's case was also applicable to X.

EXAMPLE B: X is audited by the department for the period July 1, 2015, to June 30, 2018, and assessed July 31, 2018. X pays the assessment on December 31, 2018. No protest was filed, and no claim for refund or credit was filed requesting it be held in abeyance. On January 31, 2020, X files a claim for refund relating to the entire audit. The claim is based on a recent court decision which makes the tax liability paid by X now refundable. However, only the tax paid from January 1, 2017, through June 30, 2018, will be allowed since this is the only portion within the three-year statute of limitations set forth in Iowa Code section 423.47. If the claim had been filed on or before December 31, 2019, then the entire audit period could have been considered for refund since the claim would have been filed within one year of payment.

202.11(4) *Refund of use tax.* A taxpayer cannot use Form IA 843, Refund Return, to claim a refund of use tax. A taxpayer must file an amended return to claim a refund of use tax.

This rule is intended to implement Iowa Code sections 423.45 and 423.47.

701—202.12(423) Immediate successor liability for unpaid tax. A retailer ceasing to do business is obligated to prepare a final return and pay all tax due within the time required by law. If a retailer ceasing to do business fails to prepare such final return and pay all tax due within the time required by law, any immediate successor to the retailer who purchases the business or stock of goods is obligated to withhold from the purchase price enough of the purchase price to pay the tax, interest, or penalty that the retailer owes. Any immediate successor who intentionally fails to withhold a sufficient portion of the purchase price to pay the delinquent tax, interest, or penalty is personally liable for the payment of the delinquent tax, interest, or penalty. However, if the immediate successor's purchase of the business or stock of goods was made in good faith that the retailer owed no tax, interest, or penalty, then the department may waive the immediate successor's liability. For the purpose of this rule, "retailer" includes all persons liable for tax under Iowa Code sections 421.26 and 423.33.

202.12(1) Immediate successors having a duty to withhold.

a. Only an immediate successor who, pursuant to a contract of sale, pays a purchase price to a retailer in return for the transfer of a going business or a stock of goods is obligated to inquire if tax, penalty, or interest are due and to withhold a portion of the purchase price if necessary. Persons who fail some aspect of this test are not obligated to investigate or withhold. Nonexclusive examples of persons not so obligated are as follows:

- (1) A person foreclosing on a valid security interest.
- (2) A person retaking possession of premises under a valid lease.
- (3) A spouse electing to take against a will.
- (4) A person taking by gift.
- (5) Any other person taking for what would legally be considered "value" but without the payment of a recognizable "purchase price."

b. Included within the meaning of the phrase "immediate successor" is a corporation resulting from the action of a sole proprietor who incorporates a business in which the sole proprietor is the only or the controlling shareholder, or a sole proprietorship established from a corporation of which the sole proprietor was the exclusive, majority, or controlling stockholder.

202.12(2) More than one immediate successor. If a retailer sells a business or stock of goods to two or more persons, the following requirements apply:

a. *Sale of stock of goods to two or more persons.* If a retailer sells a substantial portion of the retail business's stock of goods to another person who will in turn offer those goods for sale in a retail business, that person is an immediate successor and personally liable for payment of tax to the extent of tax, interest, or penalty owed or the amount of the individual purchase price, whichever is the lesser.

EXAMPLE: A sells the stock of goods from a furniture business, in unequal portions, to B, C, and D. B pays a \$5,000 purchase price for a portion of the stock of goods, C pays a \$20,000 purchase price for a portion of the stock of goods, and D pays a \$30,000 purchase price for the remainder of A's stock of goods. A, at the time of the transfers, owes the department of revenue \$10,000 in sales tax, interest, and penalty. Neither B, C, nor D withholds any amount for payment of tax from the purchase price. B, C, and D individually and together are liable for payment of the tax. Each is personally liable up to the amount of the purchase price that each has paid or the amount of tax, interest, and penalty owing, whichever is the lesser. In this example, B is liable for \$5,000, the lesser amount of B's purchase price (\$5,000) and the amount of tax that A owes (\$10,000); C is liable for \$10,000, since the purchase price and tax owed are equal; and D is liable for \$10,000, the lesser amount of tax owed (\$10,000) and D's purchase price (\$30,000). The department may at its discretion proceed against any one, two, or all three of the immediate successors up to the amount of tax that each owes.

b. *Purchase of differing places of business.* If one person owns two or more places of business, each having a separate sales tax permit, each location having its own permit is a separate business and has a separate stock of goods for the purpose of determining successor liability. A person purchasing the business at one location or the stock of goods from one location would be personally liable only for the tax owed under the permit assigned to that location.

202.12(3) "Sale of a retailer's business" characterized. Usually, the sale of only the machinery or equipment used in a business without the sale or leasing of the realty of the business is not a sale of the business itself. The transfer of a retailer's machinery or equipment and business realty to a person who continues to use the machinery, equipment, and realty for the sale of any type of tangible personal property or specified digital products constitutes the selling of the retailer's business, and the person to whom the business is sold is an immediate successor and liable for tax.

EXAMPLE: A is a furniture dealer. The furniture business falls on hard times. A sells the stock of goods (the furniture offered for sale) to B. A then sells the furniture store (business realty) to C. A also sells C the office equipment and all other tangible personal property and specified digital products used in the operation of the furniture store except for the stock of goods (furniture). C then uses the purchased store and the office equipment in the operation of a sporting goods store. B takes the furniture purchased from A to B's furniture store where it is sold. A owed the department \$7,000 in sales tax. Both B and C are immediate successors to A and personally liable for the sales tax.

REVENUE DEPARTMENT[701](cont'd)

202.12(4) *“Good faith” characterized.* An immediate successor to a licensee’s, retailer’s, or seller’s business or stock of goods has purchased the licensee’s, retailer’s, or seller’s business or stock of goods in good faith that no delinquent tax, interest, or penalty was due and unpaid if the immediate successor demonstrates, by suitable evidence, that one of the following situations exists. The list of situations is exclusive:

a. The department has provided the immediate successor with a certified statement that no delinquent tax, interest, or penalty is unpaid. Immediate successors shall not rely upon oral statements from department personnel that no tax, interest, or penalty is unpaid. An immediate successor may request a certified statement from the department on forms provided by the department.

(1) Prior to issuing a certified statement, the department may contact both the immediate successor and the licensee, retailer, or seller regarding the request for a certified statement from the department.

(2) A certified statement provided by the department will be recognized by the department as valid as of the issuance of the statement.

b. The immediate successor has taken in good faith a certified statement from the licensee, retailer, or seller that no delinquent tax, interest, or penalty is unpaid as of the date of purchase.

(1) A “certified statement” from a licensee, retailer, or seller is a statement the truth of which is attested to before a notary public. A certified statement from a licensee, retailer, or seller will not be recognized by the department as valid unless it includes all of the following:

1. The name of the business being purchased or a description of the stock of goods being purchased.

2. The names of the licensee, retailer, or seller and the prospective purchaser(s).

3. The tax identification numbers of both the licensee, retailer, or seller and prospective purchaser(s). Entities shall include a federal employer identification number (FEIN). Individuals shall include a social security number (SSN) or individual tax identification number (ITIN).

4. An attestation signed by the licensee, retailer, or seller attesting that no delinquent tax, interest, or penalty of the retailer is unpaid as of the date of the closing of the sale.

(2) A certified statement has been taken from a licensee, retailer, or seller “in good faith” if the immediate successor, in the exercise of due diligence, had no reason to believe a retailer’s statement was false or no reason to question the truth of the retailer’s statement.

This rule is intended to implement Iowa Code sections 421.28 and 423.33.

701—202.13(423) Officers and partners—personal liability for unpaid tax. If a retailer or purchaser fails to pay sales tax when due, any officer of a corporation or association, or any partner of a partnership, who has control of, supervision of, or the authority for remitting the sales tax payments and has a substantial legal or equitable interest in the ownership of the corporation or partnership is personally liable for payment of the tax, interest, and penalty if the failure to pay the tax is intentional. This personal liability is not applicable to sales tax due and unpaid on accounts receivable. The dissolution of a corporation, association, or partnership does not discharge a responsible person’s liability for failure to pay tax.

202.13(1) *Personal liability—how determined.* There are various criteria which can be used to determine which officers of a corporation have control of, supervision of, or the authority for remitting tax payments. Some criteria are:

a. The duties of officers as outlined in the corporate bylaws.

b. The duties that various officers have assumed in practice.

c. Which officers are empowered to sign checks for the corporation.

d. Which officers hire and fire employees.

e. Which officers control the financial affairs of the corporation.

(1) An officer in control of the financial affairs of a corporation may be characterized as one who has final control as to which of the corporation’s bills should or should not be paid and when bills that had been selected for payment will be paid.

(2) “Final control” means a significant control over which bills should or should not be paid, rather than exclusive control.

REVENUE DEPARTMENT[701](cont'd)

(3) The observations in paragraph 202.13(1)“e” are applicable to partnerships as well as corporations.

202.13(2) “Accounts receivable” described. Officers and partners are not responsible for sales tax due and owing on accounts receivable. An “account receivable” is a contractual obligation owing upon an open account. An open account is one that is neither finally settled nor finally closed but is still running and “open” to future payments or the assumption of future additional liabilities. The ordinary consumer installment contract is not an “account receivable.” The amount due has been finally settled and is not open to future adjustment. The usual consumer installment contract is a “note receivable” rather than an account receivable. An account receivable purchased by a factor or paid by a credit card company is, as of the date of purchase or payment, not an account receivable. An officer or partner will be liable for the value of the account receivable purchased or paid. Officers and partners have the burden of proving that tax is not due because it is a tax on an account receivable.

202.13(3) Beginning date of personal liability. Officers and partners are not personally liable for state sales tax due and unpaid prior to March 13, 1986. They are liable for state or local sales taxes that are both due and unpaid on and after that date.

This rule is intended to implement Iowa Code section 421.26.

701—202.14(423) Sales tax or use tax paid to another state.

202.14(1) Equal or greater tax paid to another state. When a person has already paid to any other state of the United States a state sales, use, or occupational tax on specifically identified tangible personal property or taxable services on its sale or use, prior to bringing the property into Iowa, and the tax is equal to or greater than the current rate of tax imposed by the Iowa use tax law, no additional use tax shall be due the state of Iowa by such person.

202.14(2) Less tax paid to another state. If the amount of tax already paid by such person to any other state of the United States on specifically identified tangible personal property or taxable services prior to bringing the property into Iowa is less than the current rate of tax imposed by Iowa law, use tax shall be due the state of Iowa on the difference in tax paid to the foreign state and the tax due under the Iowa law.

202.14(3) Claiming exemption for tax paid. When a person claims exemption from payment of use tax on the grounds that the tax has already been paid to any other state of the United States with respect to the sale or use of the property or service in question prior to bringing the property into Iowa, the burden of proof is upon that person to show the department, county treasurer, or motor vehicle division of the Iowa department of transportation, by document, that the tax has been paid.

202.14(4) Credit not allowed against Iowa tax. Credits shall not be allowed for sales, use, or occupational tax already paid in any state of the United States against the Iowa use tax relating to the acquisition cost of property being brought into this state when such tax already paid was paid on the sales price of lease or rental payments of tangible personal property used in another state.

This rule is intended to implement Iowa Code section 423.25.

701—202.15(423) Registered retailers selling tangible personal property on a conditional sale contract basis. A retailer shall report and remit to the department the full amount of tax computed on the full sale price on the return for the tax period during which the sale was made.

This rule is intended to implement Iowa Code sections 423.1 and 423.2.

701—202.16(423) Registered vendors repossessing goods sold on a conditional sale contract basis. A registered retailer repossessing tangible personal property that has been sold on a conditional sale contract basis and remitting use tax to the department on the full purchase price may take a deduction on the retailer’s sales and use tax return for the tax period in which the goods were repossessed, in an amount equal to the credit allowed to the purchaser for the goods returned, if the retailer has returned use tax to the purchaser on the unpaid balance.

This rule is intended to implement Iowa Code sections 423.1 and 423.2.

REVENUE DEPARTMENT[701](cont'd)

ITEM 18. Amend subrule 215.6(3) as follows:

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 and use tax permit under ~~701—Chapter 13~~ 701—Chapter 201 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).

ITEM 19. Amend rule 701—215.7(423) as follows:

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~~ 701—Chapter 201 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.

ITEM 20. Amend rule 701—215.13(423) as follows:

701—215.13(423) Filing returns; payment of tax; penalty and interest; incorporation of ~~701—Chapter 12~~ 701—Chapter 202. Except as otherwise stated in this chapter, the filing requirements of ~~701—Chapter 12~~ 701—Chapter 202 shall apply to all retailers, including remote sellers and marketplace facilitators, required to collect and remit sales tax under this chapter.

ITEM 21. Amend rule 701—215.14(423) as follows:

701—215.14(423) Permits; incorporation of ~~701—Chapter 13~~ 701—Chapter 201. Except as otherwise stated in this chapter, the permit requirements of ~~701—Chapter 13~~ 701—Chapter 201 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.

ITEM 22. Adopt the following new 701—Chapter 258:

CHAPTER 258

REFUNDS FOR ELIGIBLE BUSINESSES UNDER ECONOMIC DEVELOPMENT AUTHORITY PROGRAMS

701—258.1(15) Sales and use tax refund for eligible businesses. For eligible businesses approved under the high quality jobs program, enterprise zone program, housing enterprise zone program, or workforce housing tax incentives program by the economic development authority, a refund of sales and use tax is available.

258.1(1) Sales and use tax eligible for refund. The sales and use tax for which the eligible business can receive a refund consists of the following:

a. Sales and use tax paid for gas, electricity, water, or sewer utility services; for tangible personal property; or on services rendered, furnished, or performed to or for a contractor or subcontractor and

REVENUE DEPARTMENT[701](cont'd)

used in the fulfillment of a written contract relating to the construction or equipping of a facility of the eligible business.

b. If the eligible business is involved in a warehouse or a distribution center, sales and use tax attributable to racks, shelving and conveyor equipment.

258.1(2) Sales and use tax ineligible for refund. The sales and use tax for which the eligible business cannot receive a refund consists of the following:

a. Any local option sales tax paid is not eligible for the refund. The refund is limited to the state sales and use tax paid.

b. Any sales and use tax attributable to intangible property, furniture, or furnishings is not eligible for the refund. “Furnishings” means any furniture, appliances, equipment, and accessories that are movable and with which a room or building is furnished for comfort, convenience, or aesthetic value. Examples include rugs, décor, and window coverings. “Furnishings” does not include installed flooring such as hardwood, carpet, ceramic, stone, laminate, or vinyl.

258.1(3) Claiming the refund. To receive the refund, the eligible business must file a claim for refund within one year of project completion. For a manufacturing facility, project completion is the first date upon which the average annualized production of finished project for the preceding 90-day period at the manufacturing facility is at least 50 percent of the initial design capacity of the facility. For purposes of the workforce housing tax incentives program, “project completion” means the same as defined in Iowa Code section 15.355(2). For all other facilities, project completion is the date of completion of all improvements necessary for the start-up, location, expansion or modernization of the business.

a. To request a refund of the sales and use tax paid for gas, electric, water or sewer utility services used during construction, the eligible business must file Form IA 843, Refund Return, with the department of revenue. The claim shall include the agreement number given by the Iowa economic development authority, along with copies of invoices or a schedule to support the refund amount.

b. To request a refund of the sales and use tax paid on tangible personal property, or on services rendered to, furnished to, or performed for a contractor or subcontractor relating to the construction or equipping of a facility, the eligible business must file the Construction Contract Claim for Refund form, along with the Iowa Contractor’s Statement, with the department of revenue. It is not necessary to attach invoices to the Construction Contract Claim for Refund form, but the department reserves the right to request invoices when reviewing the refund claim.

c. To request a refund of the sales and use tax attributable to racks, shelving and conveyor equipment, the eligible business must file Form IA 843, Refund Form, with the department of revenue. The claim shall include the agreement number given by the Iowa economic development authority, along with copies of invoices or a schedule to support the refund amount. The combined amount of refunds attributable to sales and use tax paid on racks, shelving and conveyor equipment, along with tax credit certificates issued for sales and use tax paid on racks, shelving and conveyor equipment provided in 701—subrule 52.10(5), shall not exceed \$500,000 during a fiscal year. The requests for refunds or tax credit certificates will be processed in the order the requests are received on a first-come, first-served basis until the amount of refunds or credits authorized for issuance has been exhausted. If applications for refunds or tax credit certificates exceed the \$500,000 limitation for any fiscal year, the applications shall be considered in succeeding fiscal years.

This rule is intended to implement Iowa Code chapter 15.

[Filed Emergency 6/16/22, effective 7/1/22]

[Published 7/13/22]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 7/13/22.

ARC 6397C**VETERINARY MEDICINE BOARD[811]****Adopted and Filed Emergency****Rule making related to veterinarian/client/patient relationships**

The Board of Veterinary Medicine hereby amends Chapter 1, “Description of Organization and Definitions,” and Chapter 12, “Standards of Practice,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 169.5.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 169.5.

Purpose and Summary

Some of the requirements for a veterinarian/client/patient relationship (VCPR), including a veterinarian’s responsibilities in an emergency setting, were previously set forth in the American Veterinary Medical Association’s document, referenced in the rules, titled Principles of Veterinary Medical Ethics. The Board removed references to the document and adopted its own ethics rules in a separate rule making, **ARC 6212C**, IAB 2/23/22, which became effective on March 30, 2022. The rule requires a VCPR before a veterinarian may provide medical care or prescribe medications to a patient.

The Board adopted additional amendments to the VCPR requirements on December 30, 2021, in **ARC 6171C**, IAB 2/9/22, which require a physical examination of the patient or visits to the premises within the past 12 months to establish a VCPR. The Administrative Rules Review Committee (ARRC), at its March 7, 2022, meeting, delayed the effective date of that rule making by 70 days from April 1, 2022, to June 10, 2022.

This rule making addresses public comments made during the previous two rule makings and at Board meetings. Currently, a VCPR is established when three criteria are met. This rule making clarifies and addresses the responsibilities of veterinarians who provide services in an emergency setting, which were previously explained in the rule-referenced document. This rule making defines “emergency,” “physical examination,” and “premises.” It also clarifies and revises two of the criteria to allow a VCPR for groups of animals, and allows a licensed veterinarian with a VCPR to designate another licensed veterinarian to consult or provide back-up care. This rule making establishes an applicability date to avoid retroactive application of the 12-month requirement as required in **ARC 6171C**.

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

Pursuant to Iowa Code section 17A.4(3), the Board finds that notice and public participation are unnecessary or impractical because 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 14, 2022, meeting reviewed the Board’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)(c), the Board 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 14, 2022, because the ARRC approved its emergency adoption to allow licensed veterinarians to provide emergency care for their patients without having a VCPR. These amendments protect public

VETERINARY MEDICINE BOARD[811](cont'd)

health against the transmission of zoonotic diseases. These amendments became effective on June 14, 2022, after approval by the Administrative Rules Review Committee to provide one consistent rule for establishing a VCPR and to allow licensed veterinarians to utilize other licensed veterinarians in protecting public health and providing the best possible care for their patients.

Adoption of Rule Making

This rule making was adopted by the Board on May 26, 2022.

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 6403C** to allow for public comment.

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 811—Chapter 14.

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 14, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend rule 811—1.4(17A,169), introductory paragraph, as follows:

811—1.4(17A,169) Definitions. As used in ~~these~~ the rules of the board, unless the context otherwise requires:

ITEM 2. Adopt the following **new** definitions of “Emergency,” “Physical examination” and “Premises” in rule **811—1.4(17A,169)**:

“*Emergency*” means that an animal has been placed in a life-threatening condition and immediate treatment is necessary to sustain life or that death is imminent, and action is necessary to relieve extreme pain or suffering.

“*Physical examination*” means a veterinarian is physically proximate, hands-on to the patient and subjectively and objectively evaluates the patient's health status through the use of observation, auscultation, palpation, percussion or manipulations, or, for a group of patients, the veterinarian is physically proximate to the group of patients and has subjectively and objectively assessed a representative sample of the patients.

VETERINARY MEDICINE BOARD[811](cont'd)

“Premises” means the land, buildings, enclosures, and facilities operated or owned by the client where the patient or representative patients are housed, kept, located, or grazed.

ITEM 3. Amend rule 811—12.1(169) as follows:

811—12.1(169) Veterinarian/client/patient relationships.

12.1(1) The board shall determine, on a case-by-case basis, if a valid veterinarian/client/patient relationship exists. This relationship shall be deemed to exist when all of the following criteria have been met:

a. The licensed veterinarian has assumed the responsibility for making medical judgments regarding the health of the patient and the need for medical treatment, and the client has agreed to follow the instructions of the licensed veterinarian;

b. The licensed veterinarian has sufficient knowledge of the patient to initiate at least a general or preliminary diagnosis of the medical condition of the patient. Sufficient knowledge means that the licensed veterinarian has recently seen or is personally acquainted with the keeping and care of the patient by virtue of a physical examination of the patient within the past 12 months or a visit to the premises where the patient is kept within the past 12 months; and any of the following:

(1) A physical examination of the patient within the past 12 months;

(2) A professional visit within the past 12 months to the premises where the patient is kept or representative patients are kept; or

(3) The licensed veterinarian has been designated by a licensed veterinarian, who has a prior veterinarian/client/patient relationship, to provide reasonable and appropriate medical care. The veterinarian making the designation shall have met the requirements of either subparagraph 12.1(1)“b”(1) or 12.1(1)“b”(2) and the designated veterinarian must have access to the patient’s medical records.

The 12-month time period in paragraph 12.1(1)“b” shall not apply until June 14, 2023.

c. The licensed veterinarian is readily available or provides for follow-up care in case of adverse reactions or failure of the regimen of therapy, or, if unavailable, has designated another available licensed veterinarian who has access to the patient’s records to provide reasonable and appropriate medical care.

12.1(2) A valid veterinarian/client/patient relationship cannot be established by contact solely based on a telephonic or electronic communication.

12.1(3) In the absence of a veterinarian/client/patient relationship:

a. Any advice which is provided through electronic means must be general and not specific to a particular animal or its diagnosis or treatment.

b. Advice and recommendations may be provided via veterinary telephonic or electronic communication in an emergency, but only until the animal can be examined in person by a licensed veterinarian.

12.1(3) 12.1(4) Both the licensed veterinarian and the client have the right to establish or decline a valid veterinarian/client/patient relationship. Once the licensed veterinarian and the client have agreed and entered into a relationship, and the licensed veterinarian has begun patient care, the licensed veterinarian may not neglect the patient and must continue to provide professional services related to the patient’s injury or illness within the previously agreed limits. As subsequent needs and costs for patient care are identified, the licensed veterinarian and the client must confer and reach agreement on the continued care and responsibility for fees. If the informed client declines future care or declines to assume responsibility for the fees, the relationship may be terminated by either party.

12.1(4) 12.1(5) If no ongoing medical condition exists, a licensed veterinarian may terminate a valid veterinarian/client/patient relationship by notifying the client that the licensed veterinarian no longer wishes to serve that patient and client. However, if an ongoing medical or surgical condition exists, the patient should be referred to another licensed veterinarian for diagnosis, care, and treatment and the former attending licensed veterinarian should continue to provide care as needed during the transition.

12.1(5) 12.1(6) Concerns about licensed veterinarian or staff safety may result in immediate termination of the veterinarian/client/patient relationship.

VETERINARY MEDICINE BOARD[811](cont'd)

12.1(7) In emergencies, a veterinarian has an ethical responsibility to provide essential services for an animal when necessary to save the animal's life or relieve extreme suffering, subsequent to a client agreement (or until such agreement can be obtained when a client is not present or cannot be reached). Such emergency care may be limited to relieve extreme pain or suffering, or to stabilization of the patient for transport to another source of animal care or euthanasia when deemed necessary by the veterinarian. When a veterinarian cannot be available to provide services, the veterinarian should provide readily accessible information to assist a client in obtaining emergency services, consistent with the needs of the locality. In an emergency, if a veterinarian does not have the expertise or the necessary equipment and facilities to adequately diagnose or treat a patient, the veterinarian should advise the client that more qualified or specialized services are available elsewhere and offer to expedite referral to those services.

12.1(8) A licensed veterinarian who in good faith engages in the practice of veterinary medicine by rendering or attempting to render emergency or urgent care to a patient when a client cannot be identified, and a veterinarian/client/patient relationship is not established, shall not be subject to discipline based solely on the veterinarian's inability to establish a veterinarian/client/patient relationship.

[Filed Emergency 5/27/22, effective 6/14/22]

[Published 7/13/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/13/22.

ARC 6415C

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Rule making related to licensure of massage therapists

The Board of Massage Therapy hereby rescinds Chapter 131, “Licensure of Massage Therapists,” Iowa Administrative Code, and adopts new Chapter 131 with the same title.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code chapters 17A, 147 and 152C.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 17A, 147, 152C, 232 and 272C.

Purpose and Summary

Iowa Code section 17A.7 requires each state agency to conduct a comprehensive review of all of the agency’s rules with the goal of identifying and eliminating all of the rules that are outdated, redundant, or inconsistent or incompatible with statute or its own rules. Pursuant to the requirement for this regular review, the Board reviewed Chapter 131, which sets forth the basic requirements to obtain, renew, reactivate, and reinstate a license.

The Board is adopting several changes to make the rules more concise and easier to understand, as well as to incorporate current practices of the Board regarding schools that have been sanctioned by the National Certification Board for Therapeutic Massage and Bodywork for illegitimate operations. Provisions that were inconsistent with the requirements of Iowa Code chapter 152 are updated in the new Chapter 131 to expressly bring them in line with statutory language, namely requiring 600 hours of education and including “equal to or exceed” reciprocity language. Finally, requirements to obtain a temporary license are reduced in the new chapter to allow an individual whose out-of-state license did not require passing an examination to obtain a temporary license while the individual completes any remaining requirements and takes the examination, as opposed to having to pass the examination prior to obtaining a temporary license. Prior to publication of the Notice, the Board solicited feedback from stakeholders on the proposed rules and received no comments.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on March 23, 2022, as **ARC 6257C**. A public hearing was held on April 12, 2022, at 9 a.m. in Fifth Floor Conference Room 526, Lucas State Office Building, Des Moines, Iowa. No one attended the public hearing.

The Board received one public comment about the rules, inquiring whether the requirement of an “approved school” was new. The Board explained the “approved school” requirement was not new, and instead is required by Iowa Code section 152C.3(1)“a” and has long been implemented in the Board’s rules.

One change from the Notice has been made to correct the name of the foundation in paragraph 131.3(1)“a.”

Adoption of Rule Making

This rule making was adopted by the Board on June 7, 2022.

Fiscal Impact

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

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Jobs Impact

The Board does not anticipate a negative impact on jobs; reducing the requirements to allow individuals with out-of-state licenses to obtain a temporary license more quickly may have a positive impact on jobs.

Waivers

A waiver provision is not included in this rule making because all administrative rules of the professional licensure boards in the Professional Licensure Division are subject to the waiver provisions accorded under 645—Chapter 18.

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 17, 2022.

The following rule-making action is adopted:

Rescind 645—Chapter 131 and adopt the following new chapter in lieu thereof:

CHAPTER 131
LICENSURE OF MASSAGE THERAPISTS

645—131.1(152C) Definitions. For purposes of these rules, the following definitions shall apply:

“*Anniversary month*” means the month the license was issued by the board.

“*Board*” means the Iowa board of massage therapy.

“*Board-approved school*” means a school for massage therapy education that provides at least 600 hours of supervised academic instruction; has been recognized as legitimate by the board or by a similar board in another jurisdiction that licenses massage therapists; and has not been denied, suspended, or revoked by the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB).

“*Grace period*” means the 30-day period following expiration of a license when the license is still considered to be active.

“*Issuing jurisdiction*” means the duly constituted authority in another state that has issued a massage therapy license to a person.

“*Licensee*” means any person licensed to practice as a massage therapist in the state of Iowa.

“*License expiration date*” means the fifteenth day of the anniversary month every two years.

“*Massage therapy*” means performance for compensation of massage, myotherapy, massotherapy, bodywork, bodywork therapy, or therapeutic massage including hydrotherapy, superficial hot and cold applications, vibration and topical applications, or other therapy which involves manipulation of the muscle and connective tissue of the body, excluding osseous tissue, to treat the muscle tonus system for the purpose of enhancing health, providing muscle relaxation, increasing range of motion, reducing stress, relieving pain, or improving circulation.

645—131.2(272C) Licensure by examination. A person who has completed the curriculum at a board-approved school may seek licensure in accordance with this rule.

131.2(1) The applicant shall submit the following:

- a. A completed application packet.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

- b.* Payment of the applicable fees as provided in rule 645—5.8(147).
- c.* Official copies of academic transcripts sent directly to the board by the board-approved school. If a school has closed and is no longer operational, the board will accept an official transcript provided by the applicant.
- d.* Proof of passing any National Certification Board for Therapeutic Massage and Bodywork (NCBTMB) examination or the Massage and Bodywork Licensing Examination (MBLEx) sent directly from the testing authority to the board. The passing score on the written examination shall be the passing point criterion established by the testing authority at the time the test was administered.
- e.* If the applicant has been issued one or more licenses to practice massage therapy by other issuing jurisdictions, verification of licenses from every jurisdiction in which the applicant has been licensed, sent directly from the issuing jurisdictions to the board. Web-based verification may be substituted for verification from the jurisdiction's board office if the verification provides:
 - (1) The licensee's name;
 - (2) The date of initial licensure;
 - (3) The applicant's current licensure status; and
 - (4) Any disciplinary action taken against the license.

131.2(2) An applicant who has relocated to Iowa from a state that did not require licensure to practice massage therapy may submit proof of work experience in lieu of educational and training requirements, if eligible, in accordance with rule 645—19.2(272C).

645—131.3(152C) Educational qualifications for foreign-trained massage therapists. Prospective applicants who completed their education outside of the United States may receive credit for their education, provided they comply with the following:

131.3(1) Provide an equivalency evaluation of their educational credentials by one of the following entities demonstrating the curriculum is equivalent to that stated in these rules. The applicant bears the expense of the curriculum evaluation.

a. International Education Research Foundation, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, CA 90231-3665; telephone (310)258-9451; website www.ierf.org.

b. International Credentialing Associates, Inc., 7245 Bryan Dairy Road, Bryan Dairy Business Park II, Largo, FL 33777; telephone (727)549-8555.

c. Josef Silny & Associates, Inc., 7101 SW 102nd Avenue, Miami, FL 33173; telephone (305)273-1616; website jsilny.org.

131.3(2) Provide a notarized copy of the certificate or diploma awarded to the applicant from a massage therapy program in the country in which the applicant was educated.

131.3(3) Receive a final determination from the board that the applicant's education is acceptable.

645—131.4(152C) Licensure by endorsement.

131.4(1) A person who has been issued a license to practice massage therapy by another issuing jurisdiction may seek licensure in accordance with this rule.

131.4(2) The applicant shall submit all of the following:

- a.* A completed application packet.
- b.* Payment of the applicable fees as provided in rule 645—5.8(147).
- c.* Official copies of academic transcripts sent directly to the board by the board-approved school. If a school has closed and is no longer operational, the board will accept an official transcript provided by the applicant.
- d.* Proof of passing any National Certification Board for Therapeutic Massage and Bodywork (NCBTMB) examination or the Massage and Bodywork Licensing Examination (MBLEx) sent directly from the testing authority to the board. The passing score on the written examination shall be the passing point criterion established by the testing authority at the time the test was administered.
- e.* Proof that the licensure requirements in the issuing jurisdiction are equal to or exceed the requirements provided in rule 645—131.2(152C).

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

f. Verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the issuing jurisdiction(s) to the board. Web-based verification may be substituted for verification from the issuing jurisdiction's board office if the verification provides:

- (1) The licensee's name;
- (2) The date of initial licensure;
- (3) The applicant's current licensure status; and
- (4) Any disciplinary action taken against the license.

645—131.5(152C) Licensure by verification. A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

645—131.6(152C) Temporary license. A person who is licensed to practice massage therapy in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement, and who does not seek licensure by verification, may be issued a temporary license in accordance with this rule.

131.6(1) An applicant for temporary license shall submit the following:

- a.* A completed application packet.
- b.* Payment of the applicable fees as provided in rule 645—5.8(147).
- c.* Verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the issuing jurisdiction(s) to the board. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification provides:

- (1) Licensee's name;
- (2) Date of initial licensure;
- (3) Current licensure status; and
- (4) Any disciplinary action taken against the license.

d. A plan for meeting all remaining requirements for licensure within one year of issuance of the temporary permit. Such a plan shall include proof of enrollment in a school of massage therapy whose curriculum has been approved by the board, the date of enrollment, and the expected date of graduation.

131.6(2) A temporary license shall be valid for a period of up to one year and shall not be renewed.

131.6(3) A temporary license holder shall be issued a permanent license upon the board's receipt of the following:

- a.* Official copies of academic transcripts sent directly to the board by the board-approved school demonstrating completion of all remaining hours of education required for licensure.
- b.* Proof of passing any National Certification Board for Therapeutic Massage and Bodywork (NCBTMB) examination or the Massage and Bodywork Licensing Examination (MBLEx) sent directly from the testing authority to the board. The passing score on the written examination shall be the passing point criterion established by the testing authority at the time the test was administered.

645—131.7(152C) License display. Licensees shall display their initial license certificate and proof of active licensure in a conspicuous public place at their primary site of practice.

645—131.8(152C) License renewal.

131.8(1) *Renewal period.* The biennial license renewal period for a license to practice massage therapy shall begin on the sixteenth day of the anniversary month and end on the fifteenth day of the anniversary month two years later. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive notice from the board does not relieve the licensee of the responsibility for renewing the license.

131.8(2) *First renewal.* Completing continuing education is not required during the first biennial license renewal period and is not a prerequisite for the first renewal of a license.

131.8(3) *Requirements for renewal.* A licensee seeking renewal shall comply with the following before the license expiration date:

- a.* Submit a completed renewal application;

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

b. Meet the continuing education requirements of rule 645—133.2(152C) and the mandatory reporting requirements of subrule 131.8(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

c. Pay the applicable fee as provided in rule 645—5.8(147).

131.8(4) Mandatory reporter training.

a. A licensee shall indicate on the renewal application completion of training in child abuse identification and reporting, as required by Iowa Code section 232.69(3) “b,” in the previous three years if:

(1) In the scope of professional practice or in the licensee’s professional employment responsibilities, the licensee examines, attends, counsels, or treats a child; and

(2) The licensee is employed in any of the following settings:

1. A residential care facility;
2. A nursing facility;
3. An intermediate care facility for persons with mental illness;
4. An intermediate care facility for persons with an intellectual disability;
5. A school;
6. A child care center, registered child development home, or head start program;
7. A substance abuse program or facility licensed by the Iowa department of public health;
8. The Glenwood state resource center, Woodward state resource center, mental health institute in Cherokee, mental health institute in Independence, state training school, or Iowa juvenile home;
9. A juvenile detention center or juvenile shelter care facility;
10. A foster care facility; or
11. A mental health center.

b. A licensee shall indicate on the renewal application completion of training in dependent adult abuse identification and reporting, as required by Iowa Code section 235B.16(5) “b,” in the previous three years if:

(1) In the course of employment, the licensee examines, attends, counsels, or treats a dependent adult; and

(2) The licensee is employed in any of the following settings:

1. A residential care facility;
2. A nursing facility;
3. An intermediate care facility for persons with mental illness;
4. An intermediate care facility for persons with an intellectual disability;
5. A hospital;
6. An elder group home, as defined in Iowa Code section 231B.1(3);
7. An assisted living program certified under Iowa Code section 231C.3;
8. An adult day services program, as defined in Iowa Code section 231D.1(1);
9. A community mental health center; or
10. A supported community living service, sheltered workshop, or work activity center.

c. The course(s) shall be the curriculum provided by the Iowa department of human services.

d. The licensee shall maintain written documentation for three years after mandatory training as identified in paragraphs 131.8(4) “a” to “c,” including program date(s), content, duration, and proof of participation.

e. The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

(1) Is engaged in active duty in the military of this state or the United States; or

(2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in rule 645—4.14(272C).

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

f. The board may select licensees for audit of compliance with the requirements in paragraphs 131.8(4) “a” to “e.”

131.8(5) Issuing renewals. Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license renewal. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

131.8(6) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the renewal. The licensee shall be assessed a late fee as specified in 645—subrule 5.8(4). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

131.8(7) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a massage therapist in Iowa until the license is reactivated. A licensee who practices as a massage therapist in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

645—131.9(17A,147,272C) License reactivation.

131.9(1) A person whose license is inactive may apply to reactivate the license in accordance with this rule.

131.9(2) The licensee shall submit all of the following:

- a.* A completed application packet.
- b.* Payment of the applicable fees as provided in rule 645—5.8(147).
- c.* If the license has been inactive for five years or less, submission of:
 - (1) Proof of completion of 16 hours of continuing education within two years of application; and
 - (2) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction’s board office if the verification includes:
 1. Licensee’s name;
 2. Date of initial licensure;
 3. Current licensure status; and
 4. Any disciplinary action taken against the license.
- d.* If the license has been on inactive status for more than five years, submission of:
 - (1) Proof of completion of 16 hours of continuing education within two years of application;
 - (2) Proof of two years of active, licensed practice in another issuing jurisdiction immediately prior to submitting the application, or proof of passing one of the following examinations within two years of submitting the application:
 1. The National Certification Examination for Therapeutic Massage (NCETM);
 2. The National Certification Examination for Therapeutic Massage and Bodywork (NCETMB);
 3. The National Examination for States Licensing (NESL) option; or
 4. The Massage and Bodywork Licensing Examination (MBLEx); and
 - (3) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction’s board office if the verification includes:
 1. Licensee’s name;
 2. Date of initial licensure;
 3. Current licensure status; and
 4. Any disciplinary action taken against the license.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

645—131.10(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with rule 645—11.31(272C) and, if applicable, must apply for and be granted reactivation of the license in accordance with rule 645—131.9(17A,147,272C) prior to practicing as a massage therapist in this state.

These rules are intended to implement Iowa Code chapters 17A, 147, 152C, and 272C.

[Filed 6/22/22, effective 8/17/22]

[Published 7/13/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/13/22.

ARC 6404C

SECRETARY OF STATE[721]

Adopted and Filed

Rule making related to use of I-Voters at satellite absentee voting stations

The Secretary of State hereby amends Chapter 21, "Election Forms and Instructions," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 17A.4, 53.1 and 53.11.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 53.11.

Purpose and Summary

This rule making removes the option for counties to apply to the Office of the Secretary of State to use the statewide voter registration database and election management system (I-Voters) at satellite absentee voting stations. The elimination of this option helps move the State of Iowa further down the path of cyber maturity as it relates to elections.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on March 9, 2022, as **ARC 6238C**.

One comment was received from a current county auditor. This individual requested the ability to access I-Voters at county-owned buildings apart from where the auditor's office is located. This suggested change to the rule is not in line with the recommendations of our state and federal partners. Additionally, access to I-Voters is not necessary for conducting satellite voting pursuant to Iowa Code section 53.11.

No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Secretary of State on June 20, 2022.

Fiscal Impact

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

SECRETARY OF STATE[721](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 Secretary of State for a waiver of the discretionary provisions, if any, pursuant to 721—Chapter 10.

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 17, 2022.

The following rule-making action is adopted:

Rescind subrule 21.300(13) and adopt the following **new** subrule in lieu thereof:

21.300(13) Use of I-Voters at satellite absentee voting stations.

a. The statewide voter registration database (I-Voters) shall not be used or accessed at a satellite absentee voting station.

b. This rule does not prevent the use of an electronic poll book to process voters at a satellite absentee voting station if the electronic poll book does not connect to or access the statewide voter registration database (I-Voters).

[Filed 6/20/22, effective 8/17/22]

[Published 7/13/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/13/22.

ARC 6405C

TRANSPORTATION DEPARTMENT[761]**Adopted and Filed****Rule making related to annual permits for vehicles transporting
overweight loads of fluid milk products**

The Transportation Department hereby amends Chapter 511, "Special Permits for Operation and Movement of Vehicles and Loads of Excess Size and Weight," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 307.12 and 321E.29B.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 321.454, 321.456, 321.457, 321.463, 321E.2, 321E.8, 321E.10, 321E.14 and 321E.29B.

TRANSPORTATION DEPARTMENT[761](cont'd)

Purpose and Summary

This rule making updates Chapter 511 to conform the rules with 2021 Iowa Acts, House File 869, sections 1 through 3. This legislation was effective on January 1, 2022.

2021 Iowa Acts, House File 869, established new Iowa Code section 321E.29B, which allows a motor carrier to request, and the Department to issue, an annual permit for a vehicle transporting overweight loads of fluid milk products on the primary roads and primary road extensions in cities, including on the interstate, as long as the vehicle does not exceed a gross weight of 96,000 pounds or the maximum dimensions specified in Iowa Code sections 321.454 through 321.457. Federal law 23 U.S.C. Section 127 authorizes states to issue special permits for overweight vehicles carrying fluid milk products, including on the interstate system. Prior to the enactment of Iowa Code section 321E.29B, the Department was not authorized to issue an annual permit that allowed transportation of overweight loads of fluid milk on the interstate system.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on May 4, 2022, as **ARC 6311C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on June 14, 2022.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa beyond any impact anticipated by the legislation.

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 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 17, 2022.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** definition of “Fluid milk product” in rule **761—511.1(321E)**:
“Fluid milk product” means the same as defined in Iowa Code section 321E.29B(3).

ITEM 2. Amend subrule 511.2(4), introductory paragraph, as follows:

511.2(4) Except as provided in rule ~~761—511.16(321,321E)~~ 761—511.17(321,321E), permits may be issued only for the transporting of a single article which exceeds statutory size or weight limits or

TRANSPORTATION DEPARTMENT[761](cont'd)

both, and which cannot reasonably be divided or reduced to statutory size and weight limits. However, permits may be issued for the transporting of property consisting of more than one article when:

ITEM 3. Amend rule 761—511.4(321E), introductory paragraph, as follows:

761—511.4(321E) Permits. Permits issued shall be in writing or in electronic format and may be either single-trip, multitrip, annual, annual oversize/overweight, annual raw forest products, compacted rubbish, emergency interstate ~~permit~~, annual fluid milk products or all-systems permits.

ITEM 4. Amend paragraph **511.4(3)“a”** as follows:

a. Annual, annual oversize/overweight, annual raw forest products, compacted rubbish, annual fluid milk products and all-systems permits shall expire one year from the date of issuance.

ITEM 5. Renumber subrules **511.5(12)** to **511.5(15)** as **511.5(13)** to **511.5(16)**.

ITEM 6. Adopt the following new subrule 511.5(12):

511.5(12) Annual fluid milk products permit. A fee of \$400 shall be charged for each annual fluid milk products permit issued pursuant to Iowa Code section 321E.29B, payable prior to issuance of the permit.

ITEM 7. Amend paragraph **511.6(1)“a”** as follows:

a. Public liability insurance in the amounts of \$100,000 bodily injury each person, \$200,000 bodily injury each occurrence, and \$50,000 property damage with an expiration date to cover the tenure of the annual, annual oversize/overweight, annual raw forest products, all-systems, multitrip, emergency interstate, annual fluid milk products or single-trip permit shall be required. In lieu of filing with the permit-issuing authority, a copy of the current certificate of public liability insurance in these amounts shall be carried in the vehicle for which the permit has been issued. Proof of liability insurance may be either in writing or in electronic format.

ITEM 8. Amend rule 761—511.7(321,321E) as follows:

761—511.7(321,321E) Annual permits. Annual permits are issued for indivisible vehicles or indivisible loads for travel when the dimensions of the vehicle or load exceed statutory limits but the weight is within statutory limits. Routing is subject to embargoed bridges and roads and posted speed limits. The owner or operator shall select a route using the vertical clearance map and road construction and travel restrictions map provided by the department. Route, detour and road embargo information may be found online at www.511ia.org or the department's website for the embargo bridge maps. Annual permits are issued for the following:

511.7(1) Vehicles with indivisible loads, including special mobile equipment, mobile homes and factory-built structures, provided the following are not exceeded:

a. to c. No change.

d. *Weight.* See rule 761—511.15(321,321E) 761—511.16(321,321E).

e. No change.

511.7(2) Vehicles with indivisible loads, including special mobile equipment, mobile homes and factory-built structures, provided the following are not exceeded:

a. to c. No change.

d. *Weight.* See rule 761—511.15(321,321E) 761—511.16(321,321E).

e. No change.

511.7(3) Vehicles with indivisible loads, including special mobile equipment, mobile homes and factory-built structures, provided the following are not exceeded:

a. to c. No change.

d. *Weight.* See rule 761—511.15(321,321E) 761—511.16(321,321E).

e. No change.

511.7(4) No change.

511.7(5) Truck trailers manufactured or assembled in the state of Iowa provided the following are met:

TRANSPORTATION DEPARTMENT[761](cont'd)

a. to c. No change.

d. *Weight.* See rule ~~761—511.15(321,321E)~~ 761—511.16(321,321E).

e. to g. No change.

This rule is intended to implement Iowa Code sections 321.454, 321.456, 321.457, 321.463, 321E.2, 321E.3, 321E.8, 321E.10 and 321E.29A.

ITEM 9. Amend paragraph **511.8(1)“d”** as follows:

d. *Weight.* See rule ~~761—511.15(321,321E)~~ 761—511.16(321,321E).

ITEM 10. Amend rule 761—511.9(321,321E) as follows:

761—511.9(321,321E) All-systems permits. All-systems permits are issued by the motor vehicle division for indivisible vehicles or indivisible loads for travel on the primary road system and specified city streets and county roads when the dimensions of the vehicle or load exceed statutory limits but the weight is within statutory limits. Routing is subject to embargoed bridges and roads and posted speed limits. The motor vehicle division will provide a list of the authorized city streets and county roads. Permit holders shall consult with local officials when traveling on county roads or city streets for bridge embargo, vertical clearance, detour, and road construction information. These permits are issued for the following:

511.9(1) Vehicles with indivisible loads, including special mobile equipment, mobile homes and factory-built structures, provided the following are not exceeded:

a. to c. No change.

d. *Weight.* See rule ~~761—511.15(321,321E)~~ 761—511.16(321,321E).

e. No change.

511.9(2) Vehicles with indivisible loads, including special mobile equipment, mobile homes and factory-built structures, provided the following are not exceeded:

a. to c. No change.

d. *Weight.* See rule ~~761—511.15(321,321E)~~ 761—511.16(321,321E).

e. No change.

511.9(3) Vehicles with indivisible loads, including special mobile equipment, mobile homes and factory-built structures, provided the following are not exceeded:

a. to c. No change.

d. *Weight.* See rule ~~761—511.15(321,321E)~~ 761—511.16(321,321E).

e. No change.

511.9(4) No change.

511.9(5) Truck trailers manufactured or assembled in the state of Iowa provided the following are met:

a. to c. No change.

d. *Weight.* See rule ~~761—511.15(321,321E)~~ 761—511.16(321,321E).

e. to g. No change.

511.9(6) and 511.9(7) No change.

This rule is intended to implement Iowa Code sections 321.454, 321.456, 321.457, 321.463, 321E.2, 321E.3, 321E.8 and 321E.10.

ITEM 11. Amend paragraph **511.12(1)“d”** as follows:

d. *Weight.* See rule ~~761—511.15(321,321E)~~ 761—511.16(321,321E).

ITEM 12. Amend paragraph **511.13(1)“d”** as follows:

d. *Weight.* See rule ~~761—511.15(321,321E)~~ 761—511.16(321,321E).

ITEM 13. Amend paragraph **511.14(1)“d”** as follows:

d. *Weight.* See rule ~~761—511.15(321,321E)~~ 761—511.16(321,321E).

TRANSPORTATION DEPARTMENT[761](cont'd)

ITEM 14. Renumber rules **761—511.15(321,321E)** to **761—511.20(321)** as **761—511.16(321,321E)** to **761—511.21(321)**.

ITEM 15. Adopt the following new rule 761—511.15(321,321E):

761—511.15(321,321E) Annual fluid milk products permits. Annual permits are issued for indivisible loads of fluid milk products for travel when the weight of the vehicle or load exceeds statutory limits. Routing is subject to embargoed bridges and roads and posted speed limits. The owner or operator shall select a route using the vertical clearance map and road construction and travel restrictions map provided by the department. Route, detour, road embargo and bridge embargo for fluid milk products information may be found online at www.511ia.org and the department's website.

511.15(1) The following shall not be exceeded:

- a. *Width.* Statutory: 8 feet 6 inches including appurtenances.
- b. *Length.* Statutory: 75 feet 0 inches overall.
- c. *Height.* Statutory: 13 feet 6 inches.
- d. *Weight.* See rule 761—511.16(321,321E).
- e. *Distance.* Movement is allowed for unlimited distance on the primary road system, including the interstate, provided the vehicle is transporting fluid milk products to or from a milk plant, receiving station, or transfer station; routing through the motor vehicle division is not required.

511.15(2) Reserved.

This rule is intended to implement Iowa Code sections 321.454, 321.456, 321.457, 321.463, 321E.2, 321E.3, 321E.8, 321E.10 and 321E.29A

ITEM 16. Amend renumbered rule 761—511.16(321,321E) as follows:

761—511.16(321,321E) Maximum axle weights and maximum gross weights for vehicles and loads moved under permit.

511.16(1) Annual and all-systems permits.

- a. No change.
- b. See subrule ~~511.15(6)~~ 511.16(7) for exceptions for special mobile equipment.

511.16(2) Annual oversize/overweight permits or annual raw forest products permits.

- a. No change.
- b. See subrule ~~511.15(6)~~ 511.16(7) for exceptions for special mobile equipment.

511.16(3) Multitrip permits.

- a. No change.
- b. See subrule ~~511.15(6)~~ 511.16(7) for exceptions for special mobile equipment.

511.16(4) Single-trip permits.

- a. to c. No change.
- d. See subrule ~~511.15(6)~~ 511.16(7) for exceptions for special mobile equipment.

511.16(5) No change.

511.16(6) Annual fluid milk products permits. For movement under an annual fluid milk products permit, the gross weight on any axle shall not exceed 20,000 pounds with a maximum of 96,000 pounds total gross weight.

~~511.16(6)~~ **511.16(7) Special mobile equipment.** Special mobile equipment may have a gross weight of 36,000 pounds on any single axle equipped with minimum size 26.5-inch by 25-inch flotation pneumatic tires and a maximum gross weight of 20,000 pounds on any single axle equipped with minimum size 18-inch by 25-inch flotation pneumatic tires, provided that the total gross weight of the vehicle or a combination of vehicles does not exceed a maximum of 80,000 pounds for movement under an annual or all-systems permit and 126,000 pounds for movement under a single-trip, multitrip or annual oversize/overweight permit.

For tire sizes and weights allowed between the maximum and minimum indicated, the following formula shall apply: Axle weight = 20,000 pounds + (tire width - 18) × 1,882 pounds.

~~511.16(7)~~ **511.16(8) Permitted tandem axle weights.**

TRANSPORTATION DEPARTMENT[761](cont'd)

a. to *c.* No change.

This rule is intended to implement Iowa Code sections 321.463, 321E.7, 321E.8, 321E.9, 321E.9A, 321E.26, 321E.29B as enacted by 2021 Iowa Acts, House File 382, and 321E.32.

ITEM 17. Amend renumbered subrule 511.17(2) as follows:

511.17(2) At the discretion of the permit-issuing authority, the combined gross weight may exceed the statutory weight, but the axle weights shall be subject to rule ~~761—511.15(321,321E)~~ 761—511.16(321,321E).

ITEM 18. Amend renumbered paragraph **511.21(1)“c”** as follows:

c. The department shall exercise due regard for the safety of the traveling public and the protection of the highway surfaces and structures when establishing an economic export corridor. Factors to be considered include ability of the proposed economic export corridor to safely accommodate combinations of vehicles described in subrule ~~511.20(2)~~ 511.21(2), taking into account physical configurations and restrictions and traffic demands and capacity, as well as connection to markets that will benefit from the established economic export corridor.

ITEM 19. Amend renumbered paragraph **511.21(2)“a”** as follows:

a. In addition to combinations of vehicles lawful for operation on roads or road segments not designated as an economic export corridor, the following combinations of vehicles may be operated on an economic export corridor designated under subrule ~~511.20(1)~~ 511.21(1) if the combinations of vehicles meet the requirements in paragraph ~~511.20(2)“b”~~ 511.21(2)“b”:

(1) to (3) No change.

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