



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 2020

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

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
4	Friday, July 24, 2020	August 12, 2020
5	Friday, August 7, 2020	August 26, 2020
6	Wednesday, August 19, 2020	September 9, 2020

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****

NOTE: See also the Advisory Notice on page 119.

NATURAL RESOURCE COMMISSION[571]

Title not set	Via video/conference call	August 4, 2020
IAB 7/15/20 ARC 5079C	Contact Susan Stocker	1 to 2 p.m.
Imported from RMS	Email: susan.stocker@dnr.iowa.gov	

TRANSPORTATION DEPARTMENT[761]

Title not set	Via conference call	August 6, 2020
IAB 7/15/20 ARC 5081C	Contact Tracy George	10 a.m.
Imported from RMS	Email: tracy.george@iowadot.us	(If requested)
Title not set	Via conference call	August 5, 2020
IAB 7/15/20 ARC 5080C	Contact Tracy George	10 to 11 a.m.
Imported from RMS	Email: tracy.george@iowadot.us	(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 5078C**ALCOHOLIC BEVERAGES DIVISION[185]****Notice of Intended Action****Proposing rule making related to Iowa Code reference changes
and providing an opportunity for public comment**

The Alcoholic Beverages Division hereby proposes to amend Chapter 9, “Personal Importation of Alcoholic Liquor, Wine, and Beer,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 123.10.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 123.10.

Purpose and Summary

The proposed amendments will make nonsubstantive changes to Chapter 9 due to the enactment of 2019 Iowa Acts, Senate File 618. The proposed amendments remove references to 2018 Iowa Acts, Senate File 2347, and insert references to the applicable Iowa Code sections. The proposed amendments also update the chapter’s statutory implementation 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

Granting or denying a request for the issuance of a waiver pursuant to Chapter 9 is final agency action under Iowa Code chapter 17A. 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 185—Chapter 19.

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 Division no later than 4:30 p.m. on August 4, 2020. Comments should be directed to:

Tyler Ackerson
Iowa Alcoholic Beverages Division
1918 SE Hulsizer Road
Ankeny, Iowa 50021
Email: ackerson@iowaabd.com

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

ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

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 185—9.1(123) as follows:

185—9.1(123) Tax liability. The division makes no judgment or decision regarding any tax liability resulting from the personal importation of alcoholic liquor, wine, or beer as provided in Iowa Code section 123.10, ~~as amended by 2018 Iowa Acts, Senate File 2347, section 1; Iowa Code section 123.22, as amended by 2018 Iowa Acts, Senate File 2347, section 2; Iowa Code section 123.171, as amended by 2018 Iowa Acts, Senate File 2347, section 5; or 2018 Iowa Acts, Senate File 2347, section 4~~ 123.122, as applicable.

ITEM 2. Amend rule 185—9.2(123), introductory paragraph, as follows:

185—9.2(123) Personal importation in excess of the amounts provided—waiver. The administrator may provide for the issuance of a waiver for an individual of legal age desiring to import alcoholic liquor, wine, or beer in excess of the amounts provided in Iowa Code section 123.22, ~~as amended by 2018 Iowa Acts, Senate File 2347, section 2; Iowa Code section 123.171, as amended by 2018 Iowa Acts, Senate File 2347, section 5; or 2018 Iowa Acts, Senate File 2347, section 4~~ 123.122. The decision on whether the circumstances justify the issuance of a waiver shall be made at the discretion of the administrator upon consideration of all the relevant factors.

ITEM 3. Amend subrule 9.2(3) as follows:

9.2(3) Request. All requests for a waiver to import alcoholic liquor, wine, or beer in excess of the amount provided in Iowa Code section 123.22, ~~as amended by 2018 Iowa Acts, Senate File 2347, section 2; Iowa Code section 123.171, as amended by 2018 Iowa Acts, Senate File 2347, section 5; or 2018 Iowa Acts, Senate File 2347, section 4,~~ 123.122 shall be submitted in writing by completing a request for import authorization form and returning it to the division, as instructed.

ITEM 4. Amend subrule 9.2(9) as follows:

9.2(9) Ruling. A letter granting or denying a request for a waiver to import alcoholic liquor, wine, or beer in excess of the amount provided in Iowa Code section 123.22, ~~as amended by 2018 Iowa Acts, Senate File 2347, section 2; Iowa Code section 123.171, as amended by 2018 Iowa Acts, Senate File 2347, section 5; or 2018 Iowa Acts, Senate File 2347, section 4,~~ 123.122 shall be in writing and shall contain a description of the precise scope and duration of the waiver if one is issued.

ITEM 5. Amend subrule 9.2(13) as follows:

9.2(13) Violations. Violation of a condition in a waiver is equivalent to a violation of Iowa Code section 123.10, ~~as amended by 2018 Iowa Acts, Senate File 2347, section 1; Iowa Code section 123.22, as amended by 2018 Iowa Acts, Senate File 2347, section 2; Iowa Code section 123.171, as amended by 2018 Iowa Acts, Senate File 2347, section 5; or 2018 Iowa Acts, Senate File 2347, section 4,~~ 123.122, as applicable. The recipient of a waiver under this rule who violates a condition of the waiver may be subject to the same remedies or penalties as a person who violates the applicable Iowa Code ~~or Iowa Acts~~ section.

ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

ITEM 6. Amend **185—Chapter 9**, implementation sentence, as follows:
These rules are intended to implement 2018 Iowa Acts, Senate File 2347, section 4, and Iowa Code sections 123.10, 123.22, 123.59, 123.122, and 123.171 as amended by 2018 Iowa Acts, Senate File 2347.

ARC 5085C

**HOMELAND SECURITY AND EMERGENCY MANAGEMENT
DEPARTMENT[605]**

Notice of Intended Action

**Proposing rule making related to recovery and mitigation plans
and providing an opportunity for public comment**

The Homeland Security and Emergency Management Department hereby proposes to amend Chapter 7, “Local Emergency Management,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code chapter 17A and section 29C.9(8).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 29C.6 and 2020 Iowa Acts, Senate File 2188.

Purpose and Summary

This proposed amendment seeks to alleviate a burdensome local requirement to update recovery and mitigation plans in order for local government to receive federal disaster or hazard mitigation funding.

Fiscal Impact

The fiscal impact to the State is determined upon the number of federally approved applications.

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.

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 4, 2020. Comments should be directed to:

Blake DeRouchey
Department of Homeland Security and Emergency Management
7900 Hickman Road, Suite 500
Windsor Heights, Iowa 50324
Phone: 515.323.4232
Email: blake.derouchey@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 action is proposed:

Amend paragraph 7.3(4)“d” as follows:

d. Planning.

(1) and (2) No change.

(3) Plans shall be regularly reviewed and amended as appropriate in accordance with a five-year schedule established by the commission, which shall include, at a minimum:

1. ~~A~~, a complete review, and amendment as appropriate, at a minimum of every five years. However, a review, and amendment as appropriate, of the hazardous materials portion and of a minimum of 20 percent of the remaining annexes or portions of the plan shall be conducted on a yearly basis. The complete operations plan must be reviewed entirely, and amended as appropriate, every five years. A copy of the portions of the plan that are reviewed, regardless of amendment, must be certified and submitted to the department for approval by August 1 of each year.

~~2. Recovery and mitigation plans must also be reviewed, and amended as appropriate, certified and submitted to the department for approval within 180 days of the formal closing of the disaster incident period for a presidential declaration for major disaster.~~

(4) to (10) No change.

(11) Iowa Code section 29C.6 provides that state participation in funding financial assistance in a presidentially declared disaster is contingent upon the commission’s having on file a state-approved, comprehensive emergency plan as provided in Iowa Code ~~subsection~~ section 29C.9(8). ~~Plans must be received by the department within 180 days of the formal closing of the disaster incident period for a presidential declaration for major disaster for the affected jurisdiction and must be approved by the department within 240 days of the formal closing of the disaster incident period for public or private nonprofit entities within the county to be eligible to receive state financial assistance.~~

(12) Iowa Code section 29C.7 as enacted by 2020 Iowa Acts, Senate File 2188, provides that state participation in funding financial assistance in a non-presidentially declared disaster is contingent upon the commission’s having on file a state-approved, comprehensive emergency plan as provided in Iowa Code section 29C.9(8).

ARC 5079C

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

**Proposing rule making related to zoning of Mississippi River in Lansing
and providing an opportunity for public comment**

The Natural Resource Commission (Commission) hereby proposes to amend Chapter 40, “Boating Speed and Distance Zoning,” Iowa Administrative Code.

NATURAL RESOURCE COMMISSION[571](cont'd)

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 462A.3, 462A.26(2) and 462A.32.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 462A.26 and 462A.32.

Purpose and Summary

Pursuant to Iowa Code section 17A.7, the Friends of Pool 9 petitioned the Commission to amend Chapter 40. Friends of Pool 9 represent businesses along the waterfront of the Mississippi River in Lansing, Iowa. Petitioners have indicated that the safety of patrons loading and unloading onto waterfront docks is put at risk by the wakes of passing boats rocking and jolting the docks. To remedy this, the Friends of Pool 9 requested that the Commission designate a no-wake zone located along a portion of Lansing marked by buoys and extending no more than 300 feet into the Mississippi River channel, starting 800 feet north of river mile marker 662.2 and proceeding to Lansing City Marina Dike. However, the no-wake zone does not apply to commercial barge traffic. The zone will be marked with permanent signage placed on the north and south shorelines, and no-wake buoys will be placed every 1,500 feet for the length of the no-wake zone. The Friends of Pool 9 will be responsible for the placement and maintenance of the buoys designating the no-wake zone.

The Commission supports this proposed change. The Commission agrees that a no-wake zone will ensure patron safety while they are loading and unloading at local businesses, which benefits Allamakee County's tourism and local economy. The proposed change does not significantly affect general use of the river in this area, because the no-wake zone will not extend more than 300 feet into the Mississippi River channel and will not include commercial barge traffic.

Fiscal Impact

This rule making has no fiscal impact to the state of Iowa. A copy of the fiscal impact statement is available from the Department upon request.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found. However, the City of Lansing is a large tourist community for the county and positively impacts the local economy. A copy of the jobs impact statement is available from the Department upon request.

Waivers

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

Public Comment

Any interested person may submit 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 4, 2020. Comments should be directed to:

NATURAL RESOURCE COMMISSION[571](cont'd)

Susan Stocker
 Iowa Department of Natural Resources
 Wallace State Office Building
 502 East 9th Street
 Des Moines, Iowa 50319
 Fax: 515.725.8201
 Email: susan.stocker@dnr.iowa.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held via conference call as follows. Persons who wish to attend the conference call should contact Susan Stocker. A conference call number will be provided prior to the hearing. Persons who wish to make oral comments at the conference call public hearing must submit a request to Susan Stocker prior to the hearing to facilitate an orderly hearing.

August 4, 2020
 1 to 2 p.m.

Video/conference call
 Wallace State Office Building

Persons who wish to make oral comments at the public hearing 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 or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Adopt the following **new** rule 571—40.62(462A):

571—40.62(462A) Zoning of the Mississippi River, Lansing, Allamakee County.

40.62(1) All vessels, except commercial barge traffic, shall be operated at a speed not greater than 5 miles per hour within an area extending 300 feet from shore and beginning at a point 800 feet north of river mile marker 662.2 and proceeding to Lansing City Marina Dike.

40.62(2) The Friends of Pool 9 shall designate and maintain the 5-mile-per-hour speed zone with buoys approved by the natural resource commission.

This rule is intended to implement Iowa Code sections 462A.26 and 462A.32.

ARC 5087C**PUBLIC HEALTH DEPARTMENT[641]****Notice of Intended Action****Proposing rule making related to disinterment permits
and providing an opportunity for public comment**

The Public Health Department hereby proposes to amend Chapter 95, "Vital Records: General Administration," and Chapter 97, "Death Registration and Disposition of Dead Human Bodies," Iowa Administrative Code.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 144.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 144.3 and 2020 Iowa Acts, Senate File 2135.

Purpose and Summary

2020 Iowa Acts, Senate File 2135, updates Iowa Code section 144.34 regarding a disinterment permit to allow for disinterment of cremated remains without specifying a purpose for disinterment. Disinterment of a dead body or fetus is allowed if the purpose is for autopsy or reburial. The legislation outlines when a court order is required to issue a disinterment permit.

The proposed amendments update language to reflect current registration practices using the electronic death registration system, update the fetal death registration rules to reflect current registration practices using a fetal death certificate, and will allow the Bureau of Health Statistics to support the public and provide clarity regarding when a disinterment permit is to be issued.

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 the Department's variance and waiver provisions contained in 641—Chapter 178.

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 4, 2020. Comments should be directed to:

Melissa Bird
Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: melissa.bird@idph.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.

PUBLIC HEALTH DEPARTMENT[641](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. Adopt the following **new** definitions of “Cremated remains” and “Cremation” in rule **641—95.1(144)**:

“*Cremated remains*” means all the remains of the cremated human body recovered after the completion of the cremation process, including pulverization which leaves only bone fragments reduced to unidentifiable dimensions, and may include the residue of any foreign matter including casket material, bridgework, or eyeglasses that were cremated with the human remains.

“*Cremation*” means the technical process, using heat and flame, that reduces human remains to bone fragments, with the reduction taking place through heat and evaporation. Cremation shall include the processing, and may include the pulverization, of the bone fragments.

ITEM 2. Amend rules 641—97.3(144) to 641—97.5(144) as follows:

641—97.3(144) Standard registration of death—up to one year. Iowa death records submitted for registration within one year from the date of death shall be prepared on the standard Certificate of Death form.

97.3(1) The county in which the death occurs or in which the dead human body is found is the county of death.

97.3(2) If the death occurs in a moving conveyance, the county in which the dead human body is first removed from the conveyance is the county of death.

97.3(3) ~~A blank Certificate of Death form shall be used only by the state registrar or authorized agents.~~ Each person with a duty related to death certificates shall participate in the electronic death record system. A person with a duty related to a death certificate includes but is not limited to a physician as defined in Iowa Code section 135.1, a physician assistant, an advanced registered nurse practitioner, a funeral director and a county recorder.

~~**97.3(4)** If a funeral director uses a computer software program to generate death records, the certificate of death form shall be provided to the state registrar prior to the funeral director's use of the form. The state registrar shall review the form and provide written approval to the funeral director or shall deny approval of the form if the form does not conform to the standard certificate of death as prescribed. Denial shall be provided in writing.~~

641—97.4(144) Standard registration of fetal death—up to one year. Iowa fetal death records submitted for registration within one year from the date of fetal death shall be prepared on the standard Certificate of Fetal Death form. A fetal death certificate shall not be filed after one year from the date of the event. A fetal death record shall not be entered into the electronic death record system.

97.4(1) When a fetal death occurs in an institution, the person in charge of the institution or the person's designee, the physician in attendance at or after delivery, or a medical examiner may assist in preparation of the Certificate of Fetal Death form as directed by the state registrar.

97.4(2) In cases in which a fetus has reached the gestation period of 20 completed weeks or more or a weight of 350 grams or more, a Certificate of Fetal Death form shall be:

- a. Registered and maintained solely at the state registrar's office; and
- b. Filed within three days after delivery and prior to final disposition of the fetus.

97.4(3) The county in which the dead human fetus is found is the county of death. The certificate shall be filed within three days after the fetus is found.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

97.4(4) If the fetal death occurs in a moving conveyance, the county in which the fetus is first removed from the conveyance is the county of death.

97.4(5) A blank Certificate of Fetal Death form shall be used only by the state registrar or authorized agents.

~~**97.4(6)** If a funeral director uses a computer software program to generate fetal death records, the certificate of fetal death form shall be provided to the state registrar prior to the funeral director's use of the form. The state registrar shall review the form and provide written approval to the funeral director or shall deny approval of the form if the form does not conform to the standard certificate of death as prescribed. Denial shall be provided in writing.~~

641—97.5(144) Preparation of the certificate of death or fetal death.

97.5(1) The funeral director or person other than the funeral director who first assumes custody of a dead human body or fetus for the purposes of disposition shall:

- a. Obtain the personal data from the next of kin or the best-qualified person or source available;
- b. Obtain the medical certification of cause of death from the medical certifier; and
- c. Within three days after the death and prior to final disposition of the dead human body, file the completed certificate of death using the electronic statewide vital records system or, within three days after delivery and prior to disposition of the fetus, file the completed certificate of fetal death with the state registrar.

97.5(2) The funeral director or person other than the funeral director who first assumes custody of the dead human body for the purposes of disposition shall prepare the certificate of death using the electronic statewide vital records system.

97.5(3) The funeral director or person other than the funeral director who first assumes custody of the dead fetus for the purposes of disposition shall prepare the certificate of fetal death on the official form and paper issued by the state registrar ~~by one of the following means:~~

- ~~a. Use of a typewriter with dark blue or black ribbon to complete the standard certificate form;~~
- ~~b. Use of a funeral director's computer program to complete the form that has been preapproved by the state registrar pursuant to subrules 97.3(4) and 97.4(6);~~
- ~~c. Use of an electronic form prescribed by the state registrar; or~~
- ~~d. As directed by the state registrar.~~

97.5(4) Unless otherwise directed by the state registrar, a certificate of fetal death shall be accepted for filing and registration only when:

- a. All names are ~~typed~~ documented in the spaces provided;
- b. All items are completed as required;
- c. No alterations or erasures are apparent;
- d. All signatures are original and genuine and are in dark blue or black ink;
- e. The certificate presented for registration is on the approved form and official paper prescribed by the state registrar;
- f. Data are consistent with the facts of death; and
- g. The form is prepared in conformity with these rules or instructions issued by the state registrar.

ITEM 3. Amend rule 641—97.14(144) as follows:

641—97.14(144) Disinterment permits.

97.14(1) A disinterment permit may be issued as follows:

a. Disinterment of a dead human body or fetus, without a court order, shall be allowed for the purpose of autopsy or reburial only, and then only if the disinterment is accomplished supervised by a funeral director.

b. Disinterment of cremated remains, without a court order, shall be allowed, but only if supervised by a funeral director.

c. The state registrar, without a court order, shall not issue a permit without the consent of the person authorized to control the decedent's remains under Iowa Code section 144C.5.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

d. Disinterment of a dead body or fetus for the purpose of reburial may be allowed by court order only upon a showing of substantial benefit to the public, and then only if supervised by a funeral director.

e. Disinterment of a dead body or fetus for the purpose of autopsy by court order shall be allowed only when reasonable cause is shown that someone is criminally or civilly responsible for such death, after hearing, upon reasonable notice prescribed by the court to the person authorized to control the decedent's remains under Iowa Code section 144C.5, and then only if supervised by a funeral director.

f. Disinterment of a dead body or fetus for the purpose of cremation may be allowed by court order if supervised by a funeral director. Subsequent to the disinterment, cremation of the body shall only be allowed upon a determination by the state or county medical examiner that the death was due to natural causes.

97.14(2) A permit for disinterment shall be issued by the state registrar according to rules adopted pursuant to Iowa Code chapter 17A or when ordered by the district court of the county in which such body is buried. A person authorized to control final disposition of a decedent's remains under Iowa Code section 144C.5 is an interested person and shall be entitled to notice prior to the obtaining of a court order.

97.14(2) 97.14(3) Disinterment permits shall be required for any relocation aboveground or belowground of remains from the original site of interment. Disinterment permits shall be valid for 30 days after the date the permit is signed by the state registrar. Disinterment permits are issued on a form as prescribed by the state registrar with copies to be distributed as follows:

a. One copy filed with the sexton or person in charge of the cemetery in which disinterment is to be made;

b. One copy to be used during transportation of the remains;

c. One copy filed with the sexton or person in charge of the cemetery of reburial; and

d. One copy to be returned to the state registrar by the funeral director within ten days after the date of disinterment.

97.14(3) 97.14(4) When removed from the vault for final burial, a dead human body or fetus, properly embalmed and placed in a receiving vault, shall not be considered a disinterment.

97.14(4) 97.14(5) The following persons who are competent adults may acquire a disinterment permit without a court order pursuant to Iowa Code sections 144.34 and 144C.5 in the following descending order:

a. A designee, or alternate designee, acting pursuant to the decedent's declaration.

b. The surviving spouse of the decedent, if not legally separated from the decedent, whose whereabouts are reasonably ascertainable.

c. A surviving child of the decedent or, if there is more than one surviving child, a majority of the surviving children whose whereabouts are reasonably ascertainable.

d. The surviving parent or parents of the decedent whose whereabouts are reasonably ascertainable.

e. A surviving grandchild of the decedent or, if there is more than one surviving grandchild, a majority of the surviving grandchildren whose whereabouts are reasonably ascertainable.

f. A surviving sibling of the decedent or, if there is more than one surviving sibling, a majority of the surviving siblings whose whereabouts are reasonably ascertainable.

g. A surviving grandparent of the decedent or, if there is more than one surviving grandparent, a majority of the surviving grandparents whose whereabouts are reasonably ascertainable.

h. A person in the next degree of kinship to the decedent in the order named by law to inherit the estate of the decedent under the rules of inheritance for intestate succession or, if there is more than one such surviving person, a majority of such surviving persons whose whereabouts are reasonably ascertainable.

i. A person who represents that the person knows the identity of the decedent and who signs an affidavit warranting the identity of the decedent and assuming the right to control final disposition of the decedent's remains and the responsibility to pay any expense attendant to such final disposition. A person who warrants the identity of the decedent pursuant to this paragraph is liable for all damages that result, directly or indirectly, from that warrant.

j. The county medical examiner, if responsible for the decedent's remains.

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~~97.14(5)~~ 97.14(6) A funeral director may await a court order before proceeding with disinterment of a decedent's remains if the funeral director is aware of a dispute among:

a. Persons who are members of the same class of persons described in subrule ~~97.14(4)~~ 97.14(5);
or

b. Persons who are authorized under subrule ~~97.14(4)~~ 97.14(5) and the executor named in the decedent's will or personal representative appointed by the court.

97.14(7) Due consideration under this rule shall be given to the public health, the preferences of a person authorized to control final disposition of a decedent's remains under Iowa Code section 144C.5, and any court order.

ARC 5082C**PUBLIC HEALTH DEPARTMENT[641]****Notice of Intended Action****Proposing rule making related to medical cannabidiol and providing an opportunity for public comment**

The Public Health Department hereby proposes to amend Chapter 154, "Medical Cannabidiol Program," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code chapter 124E and 2020 Iowa Acts, House File 2589.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 124E and 2020 Iowa Acts, House File 2589.

Purpose and Summary

The proposed amendments update the rules pursuant to the requirements of 2020 Iowa Acts, House File 2589. These amendments:

- Remove the 3 percent tetrahydrocannabinol (THC) cap on products, replace it with a 4.5g THC/90-day purchase limit, and establish exceptions to the 4.5g THC/90-day purchase limit if a patient is terminally ill or if the patient's health care practitioner certifies the patient for additional THC.
- Require dispensaries to employ either a pharmacist or a pharmacy technician.
- Change "untreatable pain" to "chronic pain" and add "post-traumatic stress disorder" and "severe, intractable autism with self-injurious or aggressive behaviors" to the list of debilitating medical conditions.
- Add PAs, ARNPs, APRNs, and podiatrists to the list of health care practitioners who can certify patients for participation in the program.
- Add a new definition for "total tetrahydrocannabinol."
- Make the Department, instead of the Department of Transportation, responsible for issuance of registration cards.
- Remove the felony disqualifiers for patients and primary caregivers.
- Remove the limit on the number of board meetings allowed each year and require the board to meet at least twice per year.
- Remove the requirement for manufacturers to contract specifically with the State Hygienic Laboratory and instead require that they contract with "a laboratory."
- Provide access to the patient registry for health care practitioners for the purpose of determining whether patients have received a certification from another health care provider.

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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 the Department's waiver and variance provisions contained in 641—Chapter 178.

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 4, 2020. Comments should be directed to:

Owen Parker
Department of Public Health
321 East 12th Street
Des Moines, Iowa 50319
Email: owen.parker@idph.iowa.gov

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rule **641—154.1(124E)**, definitions of “Date of issuance,” “Debilitating medical condition,” “Health care practitioner,” “Laboratory” and “Medical cannabidiol,” as follows:

“*Date of issuance*” means the date of issuance of the medical cannabidiol registration card by the department of ~~transportation~~.

“*Debilitating medical condition*” means any of the following:

1. Cancer, if the underlying condition or treatment produces one or more of the following:
 - Severe or chronic pain.
 - Nausea or severe vomiting.
 - Cachexia or severe wasting.
2. Multiple sclerosis with severe and persistent muscle spasms.
3. Seizures, including those characteristic of epilepsy.
4. AIDS or HIV as defined in Iowa Code section 141A.1.
5. Crohn's disease.

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6. Amyotrophic lateral sclerosis.
7. Any terminal illness, with a probable life expectancy of under one year, if the illness or its treatment produces one or more of the following:
 - Severe or chronic pain.
 - Nausea or severe vomiting.
 - Cachexia or severe wasting.
8. Parkinson's disease.
9. ~~Untreatable~~ Chronic pain.
10. Severe, intractable autism with self-injurious or aggressive behaviors.
11. Post-traumatic stress disorder.
- ~~10. 12.~~ Any medical condition that is recommended by the medical cannabidiol board and adopted by the board of medicine by rule pursuant to Iowa Code section 124E.5 and that is listed in 653—subrule 13.15(1).

"Health care practitioner" means an individual licensed under Iowa Code chapter 148 to practice medicine and surgery or osteopathic medicine and surgery, a physician assistant licensed under Iowa Code chapter 148C, an advanced registered nurse practitioner licensed under Iowa Code chapter 152, or an advanced practice registered nurse under Iowa Code chapter 152E, who is a patient's primary care provider or a podiatrist licensed pursuant to Iowa Code chapter 149. ~~"Health care practitioner" shall not include a physician assistant licensed under Iowa Code chapter 148C or an advanced registered nurse practitioner licensed pursuant to Iowa Code chapter 152 or 152E.~~

"Laboratory" means the state hygienic laboratory at the University of Iowa or any other independent medical cannabidiol testing facility accredited to Standard ISO/IEC 17025 by an ISO-approved International Organization for Standardization-approved accrediting body, with a controlled substance registration certificate from the Drug Enforcement Administration of the U.S. Department of Justice and a certificate of registration from the Iowa board of pharmacy, and approved by the department to examine, analyze, or test samples of medical cannabidiol or any substance used in the manufacture of medical cannabidiol. For the purposes of these rules, an independent laboratory is a laboratory operated by an entity that has no equity ownership in a medical cannabidiol manufacturer.

"Medical cannabidiol" means any pharmaceutical grade cannabinoid found in the plant *Cannabis sativa* L. or *Cannabis indica* or any other preparation thereof ~~that has a tetrahydrocannabinol level of no more than 3 percent~~ and that is delivered in a form recommended by the medical cannabidiol board, approved by the board of medicine, and designated in this chapter.

ITEM 2. Adopt the following new definition of "Total tetrahydrocannabinol" in rule **641—154.1(124E)**:

"Total tetrahydrocannabinol" means 87.7 percent of the amount of tetrahydrocannabinolic acid plus the amount of tetrahydrocannabinol.

ITEM 3. Rescind the definitions of "Department of transportation" and "Untreatable pain" in rule **641—154.1(124E)**.

ITEM 4. Amend paragraph **154.2(1)"a"** as follows:

a. Determine, in the health care practitioner's medical judgment, whether the patient whom the health care practitioner has examined and treated suffers from a debilitating medical condition that qualifies for the use of medical cannabidiol as defined by this chapter, and if so determined, provide the patient with a written certification of that diagnosis by completing the health care practitioner section of the application form provided for this purpose on the department's website (www.idph.iowa.gov).

(1) If the health care practitioner provides written certification that a patient's qualifying debilitating medical condition is a terminal illness with a life expectancy of less than one year, the health care practitioner shall determine an appropriate total tetrahydrocannabinol cap. The health care practitioner shall indicate the total tetrahydrocannabinol cap on the written certification.

(2) If the health care practitioner determines that 4.5 grams of total tetrahydrocannabinol in a 90-day period is insufficient to treat a patient's qualifying debilitating medical condition and the patient has participated in the medical cannabidiol program, the health care practitioner may recommend

PUBLIC HEALTH DEPARTMENT[641](cont'd)

a higher total tetrahydrocannabinol cap. The health care practitioner shall indicate the higher total tetrahydrocannabinol cap on the written certification.

ITEM 5. Amend rules 641—154.3(124E) and 641—154.4(124E) as follows:

641—154.3(124E) Medical cannabidiol registration card—application and issuance to patient.

154.3(1) Subject to subrule 154.3(7), the department may ~~approve the issuance of~~ issue a medical cannabidiol registration card ~~by the department of transportation~~ to a patient who:

- a. Is at least 18 years of age.
- b. Is a permanent resident of Iowa.
- c. Submits a written certification to the department, provided to the patient pursuant to rule 641—154.2(124E) and signed by the patient's health care practitioner certifying that the patient is suffering from a debilitating medical condition.
- d. Submits an application to the department, on a form created by the department ~~in consultation with the department of transportation~~ and available at the department's website (www.idph.iowa.gov), that contains all of the following:
 - (1) The patient's full legal name, Iowa residence address, mailing address (if different from the patient's residence address), telephone number, date of birth, and sex designation. The patient shall not provide as a mailing address an address for which a forwarding order is in place.
 - (2) A copy of the patient's valid photo identification. Acceptable photo identification includes:
 1. A valid Iowa driver's license,
 2. A valid Iowa nonoperator's identification card, or
 3. An alternative form of valid photo identification. A patient who possesses or is eligible for an Iowa driver's license or an Iowa nonoperator's identification card shall present such document as valid photo identification. A patient who is ineligible to obtain an Iowa driver's license or an Iowa nonoperator's identification card may apply for an exemption and request submission of an alternative form of valid photo identification. A patient who applies for an exemption is subject to verification of the patient's identity through a process established by the department ~~and the department of transportation~~ to ensure the genuineness, regularity, and legality of the alternative form of valid photo identification.
 - (3) Full name, address, and telephone number of the patient's health care practitioner.
 - (4) Full legal name, residence address, date of birth, and telephone number of each primary caregiver of the patient, if any.
 - (5) An attestation as to the truthfulness and accuracy of the information provided by the patient on the application.

~~e. Has not been convicted of a disqualifying felony offense.~~

~~f. e.~~ Submits the required fee, as described in subrule 154.12(1).

154.3(2) Upon the completion, verification, and approval of the patient's application and the receipt of the required fee, the department shall ~~notify the department of transportation that the patient may be issued~~ issue a medical cannabidiol registration card to the patient.

154.3(3) A medical cannabidiol registration card issued to a patient by the department of ~~transportation~~ shall contain all of the following:

- a. to c. No change.
- ~~d. The patient's signature. The signature shall be without qualification and shall contain only the patient's usual signature without any other titles, characters, or symbols. The patient's signature certifies, under penalty of perjury and pursuant to the laws of the state of Iowa, that the statements made and information provided in the patient's application for a medical cannabidiol registration card are true and correct. The patient's signature shall be captured electronically.~~
- ~~e. A color photograph of the patient.~~
- ~~f. d.~~ A statement that the medical cannabidiol registration card is not valid for identification purposes.

154.3(4) Every patient 18 years of age or older must obtain a valid medical cannabidiol registration card to use medical cannabidiol in Iowa. ~~The department may waive this requirement for a patient who is unable to obtain a card because of health, mobility, or other issues, but only when the patient:~~

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- ~~a. Has submitted an application for a medical cannabidiol registration card;~~
- ~~b. Has had the application approved by the department;~~
- ~~c. Has been assigned a patient registration number;~~
- ~~d. Has designated a primary caregiver whose application has been approved and whose medical cannabidiol registration card has been issued; and~~
- ~~e. Complies with all provisions of Iowa Code chapter 124E.~~

154.3(5) and 154.3(6) No change.

154.3(7) The department shall not ~~approve the issuance of~~ issue a medical cannabidiol registration card for a patient who is enrolled in a federally approved clinical trial for the treatment of a debilitating medical condition with medical cannabidiol.

641—154.4(124E) Medical cannabidiol registration card—application and issuance to primary caregiver.

154.4(1) For a patient in a primary caregiver's care, the department may ~~approve the issuance of~~ issue a medical cannabidiol registration card ~~by the department of transportation~~ to a primary caregiver who:

- a. Is at least 18 years of age.
- b. Submits a written certification to the department, provided to the patient pursuant to rule 641—154.2(124E) and signed by the patient's health care practitioner certifying that the patient is suffering from a debilitating medical condition.
- c. Submits an application as a primary caregiver for each patient for whom the person is the primary caregiver. The primary caregiver application must be on a form created by the department ~~in consultation with the department of transportation~~ and available at the department's website (www.idph.iowa.gov) that contains all of the following:

(1) and (2) No change.

(3) A copy of the primary caregiver's valid photo identification. Acceptable photo identification includes:

- 1. A valid Iowa driver's license,
- 2. A valid Iowa nonoperator's identification card,
- 3. If the primary caregiver is not a resident of the state of Iowa, a valid state-issued driver's license or nonoperator's identification card issued by a state other than Iowa, or
- 4. An alternative form of valid photo identification. A primary caregiver who possesses or is eligible for a driver's license or a nonoperator's identification card shall present such document as valid photo identification. A primary caregiver who is ineligible to obtain a driver's license or a nonoperator's identification card may apply for an exemption and request submission of an alternative form of valid photo identification. A primary caregiver who applies for an exemption is subject to verification of the primary caregiver's identity through a process established by the department ~~and the department of transportation~~ to ensure the genuineness, regularity, and legality of the alternative form of valid photo identification.

(4) Full name, address, and telephone number of the patient's health care practitioner.

(5) An attestation as to the truthfulness and accuracy of the information provided by the primary caregiver on the application.

~~d. Has not been convicted of a disqualifying felony offense.~~

~~e. d.~~ Submits the required fee, as described in subrule 154.12(2).

154.4(2) Upon the completion, verification, and approval of the primary caregiver's application, the department shall ~~notify the department of transportation that the primary caregiver may be issued~~ issue a medical cannabidiol registration card to the primary caregiver.

154.4(3) A medical cannabidiol registration card issued to a primary caregiver ~~by the department of transportation~~ shall contain all of the following:

a. to d. No change.

~~e. The primary caregiver's signature. The signature shall be without qualification and shall contain only the primary caregiver's usual signature without any other titles, characters, or symbols. The primary~~

PUBLIC HEALTH DEPARTMENT[641](cont'd)

caregiver's signature certifies, under penalty of perjury and pursuant to the laws of the state of Iowa, that the statements made and information provided in the primary caregiver's application for a medical cannabidiol registration card are true and correct. The primary caregiver's signature shall be captured electronically.

~~f.~~ A color photograph of the primary caregiver.

~~g. e.~~ A statement that the medical cannabidiol registration card is not valid for identification purposes.

~~h. f.~~ A statement distinguishing the medical cannabidiol registration cardholder as a primary caregiver.

154.4(4) and 154.4(5) No change.

ITEM 6. Rescind and reserve rule **641—154.5(124E)**.

ITEM 7. Amend rule 641—154.6(124E) as follows:

641—154.6(124E) Denial and cancellation. The department may deny an application for a medical cannabidiol registration card, or may cancel or direct the department of transportation to cancel a medical cannabidiol registration card, for any of the following reasons:

1. Information contained in the application is illegible, incomplete, falsified, misleading, deceptive, or untrue.

2. The department or the department of transportation is unable to verify the identity of the applicant from the photo identification or other documentation presented pursuant to paragraph 154.3(1)“d”(2)“3” or 154.4(1)“c”(3)“4.”

3. The applicant violates or fails to satisfy any of the provisions of Iowa Code chapter 124E or these rules.

4. A patient, the patient's legal guardian, or other person with durable power of attorney requests in writing that the department cancel the patient's medical cannabidiol registration card. The department shall notify a primary caregiver in writing when the registration card of the primary caregiver's patient has been canceled.

5. A primary caregiver requests in writing that the department cancel the primary caregiver's medical cannabidiol registration card. The department shall notify a patient in writing when the registration card of the patient's primary caregiver has been canceled.

6. The department becomes aware of the death of a patient or primary caregiver.

ITEM 8. Amend rule 641—154.8(124E) as follows:

641—154.8(124E) Duplicate card.

154.8(1) Lost, stolen, or destroyed card. To replace a medical cannabidiol registration card that is lost, stolen, or destroyed, a cardholder shall present to the department of transportation the cardholder's valid state-issued driver's license, nonoperator's identification card, or alternative form of valid photo identification provided pursuant to paragraph 154.3(1)“d”(2)“3” or 154.4(1)“c”(3)“4.”

154.8(2) Change in card information and voluntary replacement.

a. To replace a medical cannabidiol registration card that is damaged, the cardholder shall surrender to the department of transportation the card to be replaced and present the cardholder's valid state-issued driver's license, nonoperator's identification card, or alternative form of valid photo identification provided pursuant to paragraph 154.3(1)“d”(2)“3” or 154.4(1)“c”(3)“4.”

b. A patient or primary caregiver to whom a medical cannabidiol registration card is issued shall notify the department of a change in current residence address, name, or sex designation listed on the card, within ten calendar days of the change. To replace a medical cannabidiol registration card to change the current residence address, name, or sex designation listed on the card, the cardholder shall surrender to the department of transportation the card to be replaced and present a valid state-issued driver's license, nonoperator's identification card, or alternative form of valid photo identification provided pursuant to paragraph 154.3(1)“d”(2)“3” or 154.4(1)“c”(3)“4” that has been updated according to the procedures

PUBLIC HEALTH DEPARTMENT[641](cont'd)

established by the state or agency of issuance to reflect the requested residence address, name, or sex designation.

c. To replace a medical cannabidiol registration card held by a primary caregiver to change, add, or remove a patient's medical cannabidiol registration number or the name of a patient's parent or legal guardian listed on the primary caregiver's card, the primary caregiver shall submit a new application to the department pursuant to rule 641—154.4(124E). A medical cannabidiol registration card issued pursuant to this paragraph shall not be considered a duplicate card.

154.8(3) Expiration date. A duplicate medical cannabidiol registration card shall have the same expiration date as the medical cannabidiol registration card being replaced, changed, or amended.

ITEM 9. Amend rule 641—154.10(124E) as follows:

641—154.10(124E) Confidentiality. The department shall maintain a confidential file of the names of each patient to or for whom the department ~~approves the issuance of~~ issues a medical cannabidiol registration card and the name of each primary caregiver to whom the department issues a medical cannabidiol registration card under Iowa Code section 124E.4.

154.10(1) Personally identifiable information of patients and primary caregivers shall be maintained as confidential and is not accessible to the public. The department ~~and the department of transportation~~ shall release aggregate and statistical information regarding the medical cannabidiol act registration card program in a manner which prevents the identification of any patient or primary caregiver.

154.10(2) Personally identifiable information of patients and primary caregivers may be disclosed under the following limited circumstances:

a. To authorized employees or agents of the department ~~and the department of transportation~~ as necessary to perform the duties of the department ~~and the department of transportation~~ pursuant to Iowa Code chapter 124E and these rules.

b. To authorized employees of state or local law enforcement agencies located in Iowa, solely for the purpose of verifying that a person is lawfully in possession of a medical cannabidiol registration card issued pursuant to Iowa Code chapter 124E and these rules.

c. To a patient, primary caregiver, or health care practitioner, upon written authorization of the patient or primary caregiver.

d. To a health care practitioner for the purpose of determining whether a patient seeking a written certification pursuant to Iowa Code section 124E.3 and these rules has already received a written certification from another health care practitioner.

e. To authorized employees of a medical cannabidiol dispensary, but only for the purposes of verifying that a person is lawfully in possession of a medical cannabidiol registration card issued pursuant to Iowa Code chapter 124E and these rules and that a person has not purchased total tetrahydrocannabinol in excess of the amount authorized by Iowa Code chapter 124E and these rules.

ITEM 10. Rescind and reserve rule **641—154.11(124E)**.

ITEM 11. Amend rule 641—154.14(124E) as follows:

641—154.14(124E) Form and quantity Allowable forms of medical cannabidiol. ~~The form and quantity of medical cannabidiol authorized in this rule may be modified pursuant to recommendations by the medical cannabidiol board, subsequent approval of the recommendations by the board of medicine and adoption of the recommendations by the department by rule.~~

154.14(1) Quantity. ~~Modification of allowable forms. A 90-day supply is the maximum amount of each product that shall be dispensed by a dispensary at one time. The allowable forms of medical cannabidiol authorized in this rule may be modified pursuant to recommendations by the medical cannabidiol board, subsequent approval of the recommendations by the board of medicine and adoption of the recommendations by the department by rule.~~

154.14(2) Form. Allowable forms.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

a. to c. No change.

ITEM 12. Amend subrule 154.40(4) as follows:

154.40(4) *Establishment and maintenance of a secure sales and inventory tracking system.* The department shall establish and maintain a secure, electronic system that is available 24 hours a day, seven days a week to track:

- a. Inventory of medical cannabidiol and waste material;
- b. Sales of medical cannabidiol from dispensaries to patients and primary caregivers.
- c. Total tetrahydrocannabinol purchased in the last 90 days by a patient and the patient's primary caregiver.

ITEM 13. Amend rule 641—154.41(124E) as follows:

641—154.41(124E) Dispensary operations.

154.41(1) *Operating documents.* The operating documents of a dispensary shall include all of the following:

a. Procedures for the oversight of the dispensary, including descriptions of operational and management practices regarding:

- (1) The forms and quantities of medical cannabidiol products that will be stored and dispensed at the dispensary;
- (2) The estimated forms and quantities of medical cannabidiol waste to be generated or collected;
- (3) The disposal methods for all waste materials;
- (4) Employee training methods for the dispensary employees;
- (5) Strategies for identifying and reconciling discrepancies in inventory of medical cannabidiol;
- (6) Procedures to ensure the dispensary does not dispense more than a patient's certified cap of total tetrahydrocannabinol to a patient and the patient's primary caregiver(s) in a 90-day period;
- ~~(6)~~ (7) Medical cannabidiol labeling procedures;
- ~~(7)~~ (8) Procedures for recall or market withdrawal of medical cannabidiol;
- ~~(8)~~ (9) Plans for responding to a security breach at the dispensary facility;
- ~~(9)~~ (10) A business continuity plan; and
- ~~(10)~~ (11) Other information requested by the department.

b. Procedures to ensure accurate record keeping.

c. Procedures for the implementation of appropriate security measures to deter and prevent the theft of medical cannabidiol and unauthorized entrance into areas of the dispensary facility containing medical cannabidiol.

154.41(2) *Prohibited activities.*

a. A person or entity shall not own or operate a dispensary unless the person or entity is licensed by the department pursuant to Iowa Code chapter 124E and these rules.

b. A dispensary shall not:

- (1) Dispense medical cannabidiol in any location except in those areas approved by the department;
- (2) Sell, receive, transport, or distribute medical cannabidiol from any location except its dispensary;
- (3) Sell, receive, or distribute medical cannabidiol from any entity other than a manufacturer licensed by the department;
- (4) Sell or distribute medical cannabidiol to any person other than an approved patient or primary caregiver;
- (5) Sell or distribute more than 4.5 grams of total tetrahydrocannabinol to a patient and the patient's primary caregiver(s) in a 90-day period, unless the patient's health care practitioner has certified a higher total tetrahydrocannabinol cap;

~~(5)~~ (6) Transport or deliver medical cannabidiol to any location, unless approved by the department;

~~(6)~~ (7) Sell medical cannabidiol that is not packaged and labeled in accordance with rules 641—154.21(124E) and 641—154.46(124E);

PUBLIC HEALTH DEPARTMENT[641](cont'd)

- ~~(7)~~ (8) Repackage medical cannabidiol or remove the manufacturer's label;
- ~~(8)~~ (9) Sell medical cannabidiol in any form or quantity other than a form or quantity approved by the department and adopted by rule;
- ~~(9)~~ (10) Permit any person to consume medical cannabidiol on the property of the dispensary;
- ~~(10)~~ (11) Employ a person who is under 18 years of age or who has been convicted of a disqualifying felony offense.

154.41(3) and **154.41(4)** No change.

154.41(5) *Employment of a pharmacist or pharmacy technician.* A medical cannabidiol dispensary shall employ a pharmacist or pharmacy technician licensed or registered pursuant to Iowa Code chapter 155A for the purpose of making dosing recommendations.

ITEM 14. Amend rule 641—154.46(124E) as follows:

641—154.46(124E) Dispensing.

154.46(1) *Access to all forms of product.* A dispensary shall provide access to all medical cannabidiol forms produced by each licensed manufacturer.

154.46(2) *Dispensing to a patient.*

a. Prior to dispensing any medical cannabidiol to a patient, a dispensary shall do all of the following:

(1) Verify the patient's identity; using a valid photo ID. Acceptable photo identification includes:

1. A valid Iowa driver's license,
2. A valid Iowa nonoperator's identification card,
3. A U.S. passport,
4. A U.S. military ID or veteran ID,
5. A tribal ID card/document;

(2) Verify that the patient is registered and listed in the secure sales and inventory tracking system and has a valid medical registration card;

(3) Check the secure sales and inventory tracking system for the patient's total tetrahydrocannabinol 90-day purchase cap and the amount of total tetrahydrocannabinol that the patient and the patient's primary caregiver(s) have purchased on behalf of the patient in the past 90 days to ensure that the amount of total tetrahydrocannabinol sold by the dispensary to the patient does not exceed the patient's cap;

~~(3)~~ (4) Assign a tracking number to any medical cannabidiol that is to be dispensed to the patient;

~~(4)~~ (5) Issue a label that contains the following information:

1. The medical cannabidiol tracking number; and
2. The patient registration number;

~~(5)~~ (6) Ensure the following information, which may be printed on a secondary label or package insert, is issued with dispensed medical cannabidiol:

1. to 3. No change.

b. No change.

154.46(3) *Dispensing to a primary caregiver.*

a. Prior to dispensing any medical cannabidiol to a primary caregiver, a dispensary shall do all of the following:

(1) Verify the primary caregiver's identity; using a valid photo ID. Acceptable photo identification includes:

1. A valid Iowa driver's license,
2. A valid Iowa nonoperator's identification card,
3. A U.S. passport,
4. A U.S. military ID or veteran ID,
5. A tribal ID card/document;

(2) Verify that the patient and the primary caregiver are registered and listed in the secure sales and inventory tracking system and have valid medical registration cards;

PUBLIC HEALTH DEPARTMENT[641](cont'd)

(3) Check the secure sales and inventory tracking system for the associated patient's total tetrahydrocannabinol 90-day purchase cap and the amount of total tetrahydrocannabinol that the patient and patient's primary caregiver(s) have purchased on behalf of the patient in the past 90 days to ensure that the amount of total tetrahydrocannabinol sold by the dispensary to the primary caregiver does not exceed the patient's cap;

~~(3)~~ (4) Assign a medical cannabidiol tracking number to any medical cannabidiol that is to be dispensed to the primary caregiver;

(4) (5) Issue a label that contains the following information:

1. The medical cannabidiol tracking number; and
2. The patient registration number;

~~(5)~~ (6) Ensure the following information, which may be printed on a secondary label or package insert, is issued with dispensed medical cannabidiol:

1. to 3. No change.
- b. No change.

ITEM 15. Amend subrule 154.60(2) as follows:

154.60(2) Responsibilities of the board include but are not limited to:

a. to e. No change.

~~f. Considering recommendations to the general assembly for statutory revisions to the definition of medical cannabidiol to increase the tetrahydrocannabinol (THC) level to more than 3 percent.~~

~~g. f.~~ Submitting an annual report to the general assembly detailing the activities of the board no later than January 1.

ITEM 16. Amend subrule 154.61(4) as follows:

154.61(4) *Board meetings.*

a. The board shall convene at least twice ~~but no more than four times a~~ per year.

b. to e. No change.

ARC 5084C

PUBLIC SAFETY DEPARTMENT[661]

Notice of Intended Action

Proposing rule making related to the Governor's Traffic Safety Bureau and providing an opportunity for public comment

The Public Safety Department hereby proposes to amend Chapter 20, "Governor's Traffic Safety Bureau," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Executive Order 23, signed June 9, 1986, and 23 U.S.C. 402.

State or Federal Law Implemented

This rule making implements, in whole or in part, Executive Order 23, signed June 9, 1986, and 23 U.S.C. 402.

Purpose and Summary

The purpose of the proposed amendments is to update the process by which applications for funding are submitted and reviewed. Specifically, the exhaustive criteria that were previously listed are being removed and more deference is given to the guidance from the federal government. Additionally, updates are being made throughout to remove references to specific years or versions of documents. This allows

PUBLIC SAFETY DEPARTMENT[661](cont'd)

the rules to remain unaffected with every change to the federal statute or internal Governor's Traffic Safety Bureau documents.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on August 10, 2020. Comments should be directed to:

Pat Hoyer
Governor's Traffic Safety Bureau
Department of Public Safety
Oran Pape State Office Building
215 East 7th Street
Des Moines, Iowa 50319
Phone: 515.725.6120
Email: hoyer@dps.state.ia.us

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rule 661—20.2(23USC402,ExecOrd23) as follows:

661—20.2(23USC402,ExecOrd23) Purpose. The purpose of the highway safety program is to provide a coordinated federal, state and local effort to reduce traffic-related deaths, injuries, and property damage crashes.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

The following eight highway safety priority areas have been established by the federal government to provide a guide to program involvement and reimbursement: alcohol; police traffic services; emergency medical services; traffic records; occupant restraints; engineering; motorcycles; and pedestrians/bicycles.

NOTE: The federal government may add additional priority areas as traffic trends change.

ITEM 2. Amend subrule 20.3(6) as follows:

20.3(6) Application for funding.

a. Proposals for funding highway safety programs may be submitted at any time during set application time periods by any city, county, or state agency, or nonprofit organization or any other eligible organization or individual.

b. ~~Applications must be received on or before March 1 to be considered for funding in the next federal fiscal year, beginning October 1, must be received on or before March 1 to be considered.~~ Applications for contracts beginning November 1 must be received on or before May 1. The bureau chief of the governor's traffic safety bureau may amend the deadline dates in order to implement projects and special activities as deemed appropriate.

c. Initial proposals should include project title, statement of the highway safety problem to be addressed supported by ~~three years of~~ crash data, what is being proposed to solve the problem, how it will be evaluated, a proposed budget, and a letter of intent accepting responsibility for the proposed project from the responsible authority of the organization making application.

d. Only ~~written~~ requests containing the listed elements will be considered for funding.

e. Assistance in developing and submitting proposals for highway safety funding may be obtained by contacting the ~~Director, Governor's Traffic Safety Bureau, Iowa Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319, or by electronic mail via the Internet~~ governor's traffic safety bureau, Iowa department of public safety, by email at gtsbinfo@safe.ia.gov.

~~EXCEPTION: Applications for funding of programs pursuant to the authority of 23 U.S.C. 153 must be received by the governor's traffic safety bureau on or before June 1 to be considered for the following federal fiscal year.~~

ITEM 3. Amend subrule 20.4(1) as follows:

20.4(1) Allocation of federally appropriated funds administered by the governor's traffic safety bureau pursuant to Title 23 U.S.C. ~~as amended through September 1, 1993, Section 402,~~ shall be based on: (1) federally mandated projects; and (2) high fatality and personal injury crash causations and locations.

~~The following criteria will be used to rank Iowa's counties according to the severity of their highway safety problems:~~

~~*a.* Fatal crashes by county.~~

~~*b.* Personal injury crashes by county.~~

~~*c.* Serious personal injury crashes by county.~~

~~*d.* Alcohol-related fatal crashes by county.~~

~~*e.* Alcohol-related personal injury crashes by county.~~

~~*f.* Vehicle miles of travel by county.~~

~~*g.* Serious traffic offenses by county.~~

~~*h.* Fatal and injury crashes involving motorcycles by county.~~

~~*i.* Fatal and injury crashes involving pedestrians and bicycles by county.~~

~~Eligibility of counties, and cities within those counties, for the limited federal funds available will be determined according to county rankings on the nine listed criteria.~~

NOTE: The governor's traffic safety bureau shall refer to current federal authorization to dictate how funds are distributed.

ITEM 4. Amend rule 661—20.5(23USC402,ExecOrd23) as follows:

661—20.5(23USC402,ExecOrd23) Program requirements.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

20.5(1) All approved programs funded by the governor's traffic safety bureau must be administered in compliance with the current version of the Iowa Governor's Traffic Safety Bureau Policies and Procedures Manual, 1993.

20.5(2) Highway safety contract procedures and reporting forms and their explanations are contained in the current version of the Iowa Governor's Traffic Safety Bureau Policies and Procedures Manual, 1993.

20.5(3) Single copies of the current version of the Iowa Governor's Traffic Safety Bureau Policies and Procedures Manual may be obtained on request from the ~~Director~~, Governor's Traffic Safety Bureau, Iowa Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319.

ITEM 5. Amend **661—Chapter 20**, implementation sentence, as follows:

These rules are intended to implement Title 23 U.S.C., Section 402, ~~as amended through September 1, 1993,~~ and Governor's Executive Order Number Twenty-Three, signed June 9, 1986.

ARC 5083C

PUBLIC SAFETY DEPARTMENT[661]

Notice of Intended Action

Proposing rule making related to smoke alarms and detectors and providing an opportunity for public comment

The State Fire Marshal hereby proposes to amend Chapter 210, "Smoke Detectors," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 100.18.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 100.18.

Purpose and Summary

The proposed amendments bring regulations into compliance with nationally recognized fire codes and acknowledge new technologies.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

PUBLIC SAFETY DEPARTMENT[661](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 August 10, 2020. Comments should be directed to:

Daniel Wood
State Fire Marshal Office
Department of Public Safety
Oran Pape State Office Building
215 East 7th Street
Des Moines, Iowa 50319
Phone: 515.725.6150
Email: wood@dps.state.ia.us

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Amend **661—Chapter 210** as follows:

CHAPTER 210
SMOKE ~~DETECTORS~~ ALARMS/DETECTORS

661—210.1(100) Definitions. The following definitions apply to rules 661—210.1(100) through 661—210.5(100):

“*Approved*” means that the equipment has been approved or listed for a specific use by an independent testing laboratory or organization of national reputation.

~~“*Commercial grade smoke detection system*” means a system of smoke detectors in which each detector is listed to Underwriters Laboratory Standard 268, Smoke Detectors for Fire Alarm Systems, or to another standard approved by the state fire marshal. Sensors in a commercial grade smoke detection system shall be located so as to provide coverage at least equivalent to that which would be provided by smoke detectors installed as required in subrule 210.3(11).~~

~~“*Dual sensor smoke detector*” means a smoke detector which contains both an ionization sensor and a photoelectric sensor and which is designed to detect and trigger an alarm in response to smoke detected through either sensing device, or a smoke detector which has at least two sensors and which is listed to Underwriters Laboratory Standard 217, Single and Multiple Station Smoke Alarms, or to another standard approved by the state fire marshal.~~

“*Fire alarm system*” means a system or a portion of a combination system consisting of components and circuits arranged to monitor and annunciate the status of fire alarm or supervisory signal-initiating devices and to initiate the appropriate response to those signals.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

“Multiple-station smoke alarm” means two or more single-station smoke alarm devices that are capable of interconnection such that actuation of one causes the appropriate alarm signal to operate in all interconnected alarms. Interconnection may occur wirelessly for residential smoke alarms.

“Single-station smoke alarm” means an assembly incorporating the detector, the control equipment and the alarm-sounding device in one unit, operated from a power supply either in the unit or obtained at the point of installation or both.

“Smoke alarm” means a single- or multiple-station alarm responsive to smoke. See also “single-station smoke alarm” and “multiple-station smoke alarm.” Residential smoke alarms are required to be listed under Underwriters Laboratory Standard (UL) 217.

“Smoke detector” means a device that senses visible or invisible particles of combustion. Smoke detectors are typically listed under UL 268.

661—210.2(100) Scope. The provisions of this chapter apply to single-family and two-family residences, ~~and~~ to townhouses and to all other residential occupancies in commercial buildings unless otherwise provided herein or by another provision of law. The provisions of this chapter do not apply to nonresidential occupancies.

661—210.3(100) General requirements.

210.3(1) Approved single-station smoke alarms shall be acceptable in all areas covered by this chapter, unless other fire warning equipment or materials are required by any provision of 661—Chapter 201, 202, or 205 or if a ~~commercial grade smoke detection system~~ fire alarm system with smoke detection listed under UL 268 has been installed. Any single-station smoke alarm or multiple-station smoke alarm installed on or after April 1, 2010, in compliance with this subrule, including a replacement of an existing smoke alarm, shall be a dual-sensor smoke alarm listed under UL 217. ~~If sufficient dual sensor smoke alarms have been installed to comply with the requirements of this chapter, additional smoke alarms which may be other than dual sensor alarms may be installed.~~

210.3(2) Any installation of wiring and equipment shall comply with NFPA 70, National Electrical Code, 2014 edition, and requirements established by the manufacturer of the equipment serviced by the wiring 661—Chapter 504.

210.3(3) All devices, combinations of devices, and equipment to be installed in conformity with this chapter shall be approved and used for the purposes for which they are intended. Any smoke alarm installed on or after April 1, 2010, in compliance with this chapter, including a replacement of an existing smoke alarm, shall be a dual-sensor smoke alarm listed in accordance with UL 217. Existing dual sensor smoke alarms may be maintained until replacement is recommended by the manufacturer or upon failure. ~~If sufficient dual sensor smoke alarms have been installed to comply with the requirements of this chapter, additional smoke alarms which may be other than dual sensor alarms may be installed.~~

210.3(4) to 210.3(6) No change.

210.3(7) Power source.

a. In new buildings and additions constructed after July 1, 1991, required smoke ~~detectors~~ alarms shall receive their primary power from the building wiring when such wiring is served from a commercial source. Wiring shall be permanent and without a disconnecting switch other than that required for overcurrent protection. Smoke ~~detectors~~ alarms may be solely ~~battery-operated~~ battery-powered when installed in existing buildings, or in buildings without commercial power, or in buildings which undergo alterations, repairs or additions subject to subrule 210.3(2).

b. New and replacement smoke ~~detectors~~ alarms installed after May 1, 1993, which receive their primary power from the building wiring shall be equipped with a battery backup.

c. New and replacement smoke alarms installed after July 1, 2016, which receive their primary power from the building wiring where more than one smoke alarm is required to be installed shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms.

d. After June 30, 2021, a battery-powered smoke alarm listed in accordance with UL 217 that is newly installed or replaces an existing battery-powered smoke alarm must be powered by a nonremovable, nonreplaceable battery that powers the alarm for at least ten years. The battery

PUBLIC SAFETY DEPARTMENT[661](cont'd)

requirements of this subrule do not apply to a fire alarm, smoke detector, smoke alarm, or ancillary component that is electronically connected as a part of a centrally monitored or supervised alarm system; that uses a low-power, radio frequency wireless communication signal.

210.3(8) to 210.3(12) No change.

661—210.4(100) Smoke detectors—notice and certification of installation.

~~**210.4(1) Notice of installation.**~~ An owner of a rental residential building containing two or more units, who is required by law to install smoke detectors, shall notify the local fire department upon installation of required smoke detectors.

~~**210.4(2) Certification—single family dwelling units.**~~ A person who files for a homestead tax credit pursuant to Iowa Code chapter 425 shall certify that the single-family dwelling unit for which the credit is filed has a smoke detector(s) alarm(s) installed in accordance with subrule 210.3(6) and paragraph 210.3(11)“a,” 210.3(12)“a,” or that such smoke detector(s) alarm(s) will be installed within 30 days of the date of filing for credit.

~~**210.4(3) Reports to fire marshal.**~~ Each county or city assessor charged with the responsibility of accepting homestead tax credit applications shall obtain certification of smoke detection on a form acceptable to the state fire marshal, signed by the person making application for credit, and shall file a quarterly report with the fire marshal listing the name and address and stating whether applicant attested to a detector(s) being present at the time of application or that a detector(s) would be installed as required within 30 days.

661—210.5(100) Smoke detectors—new and existing construction.

210.5(1) New construction. All multiple-unit residential buildings and single-family dwellings which are constructed after July 1, 1991, shall include the installation of smoke detectors alarms meeting the requirements of rule 661—210.3(100).

210.5(2) Existing construction. All existing single-family units and multiple-unit residential buildings shall be equipped with smoke alarms or detectors as required in paragraph 210.3(11)“a.” 210.3(12)“a.”

These rules are intended to implement Iowa Code section 100.18.

ARC 5077C

REVENUE DEPARTMENT[701]

Notice of Intended Action

Proposing rule making related to affiliated corporations acting as a unit and providing an opportunity for public comment

The Revenue Department hereby proposes to amend Chapter 18, “Taxable and Exempt Sales Determined by Method of Transaction or Usage,” and Chapter 213, “Miscellaneous Taxable Sales,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 421.14.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 423.1(50).

Purpose and Summary

In November 2019, the Department received a petition for a declaratory order, pursuant to Iowa Code section 17A.9 and rule 701—7.24(17A). The petition requested that the Department analyze facts under

REVENUE DEPARTMENT[701](cont'd)

rule 701—213.24(423) relating to affiliated corporations acting as a unit. Upon review of the rule at issue, the Department determined that a change to its rules regarding affiliated corporations acting as a unit is appropriate.

Before Iowa's conformity to the Streamlined Sales and Use Tax Agreement (Streamlined) in 2005, rule 701—18.32(422,423) was intended to implement Iowa Code section 422.42(12). Prior to 2005, Iowa Code section 422.42(12) defined "person" to include "any individual firm, copartnership, joint adventure, association, corporation, municipal corporation, estate, trust, business trust, receiver, or any other group or combination acting as a unit and the plural as well as the singular number."

In 2005, the Iowa Legislature adopted the Streamlined definition of "person" under current Iowa Code section 423.1(36), which no longer includes the "acting as a unit" language. Subsequently, the Department adopted new rules to reflect the changes brought about by the State's participation in Streamlined. Included in those new rules is rule 701—213.24(423), which is very similar to 701—18.32(422,423). The Department should not have adopted the "acting as a unit" provisions in rule 701—213.24(423) because they no longer have meaning without the "acting as a unit" language in the "person" definition under Iowa Code section 423.1(36). The Department did not rescind or otherwise amend the pre-Streamlined rules at that time.

After reviewing the petition for a declaratory order, the Department has concluded that rescinding rule 701—18.32(422,423) and amending rule 701—213.24(423) is appropriate to improve accuracy and clarity of the Department's rules.

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 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 4, 2020. Comments should be directed to:

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

Public Hearing

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

REVENUE DEPARTMENT[701](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. Rescind and reserve rule **701—18.32(422,423)**.

ITEM 2. Amend rule 701—213.24(423) as follows:

701—213.24(423) Sale, transfer or exchange of tangible personal property or taxable enumerated services between affiliated corporations.

~~**213.24(1) In general.** The sales price of the sale, transfer or exchange of tangible personal property or taxable services among affiliated corporations, including but not limited to a parent corporation to a subsidiary corporation, for a consideration is subject to tax. A bookkeeping entry for an "account payable" qualifies as consideration as well as the actual exchange of money or its equivalent. The sales price of transactions between affiliated corporations may not be subject to tax where it can be shown that the affiliated corporations are operating as a unit within the meaning of Iowa Code sections 423.1(32) and 423.1(46).~~

~~**213.24(2) Affiliated corporations acting as a unit.** If an affiliated corporation acts as an agent for another affiliated corporation in a transaction listed in 213.24(1), the corporations may be considered as acting as a unit. There may not be taxable transactions between the affiliates, but this does not create an exemption for the purchase of tangible personal property or taxable services.~~

~~EXAMPLE. Corporation A and Corporation B are affiliated corporations. Corporation A is in the business of negotiation, arbitration, and mediation. Corporation B runs a fleet of taxis. Corporation A acts as Corporation B's agent in negotiating a contract between B and an outside third party C for C to do all of B's vehicle repair at a very favorable price. In spite of a bookkeeping entry listing a sale of the contract for repair from A to B, in securing the contract, the corporations have "acted as a unit," and the "sale" from A to B is not subject to Iowa tax. However, any payments from A to C or from B to C in return for C's performance of taxable vehicle repair would be subject to tax, and C must collect Iowa sales tax on the sales price of those services.~~

~~This rule should not be equated with the unitary business concept used in corporation income tax law.~~

~~This rule is intended to implement Iowa Code sections 423.1(32) and 423.1(46) section 423.1(50).~~

ARC 5081C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rule making related to a statewide standard for permitting certain implements of husbandry and providing an opportunity for public comment

The Department of Transportation hereby proposes to amend Chapter 181, "Statewide Standard for Permitting Certain Implements of Husbandry," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 307.12 and 321.463(4).

TRANSPORTATION DEPARTMENT[761](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 321.463(4) as amended by 2019 Iowa Acts, Senate File 555, section 1.

Purpose and Summary

This proposed rule making implements the change made to Iowa Code section 321.463(4) within 2019 Iowa Acts, Senate File 555, section 1. The proposed amendment allows a local authority to issue a special permit letting a self-propelled implement of husbandry used exclusively for the application of organic or inorganic plant food materials, agricultural limestone or agricultural chemicals to operate over a bridge within the local authority's jurisdiction with a weight in excess of weight limitations established by the local authority but within the weight limitations imposed by Iowa Code chapter 321. Before issuing a special permit, the local authority must evaluate the affected bridge according to the American Association of State Highway and Transportation Officials Manual for Bridge Evaluation. The proposed amendment also makes a correction to the name of the Bridges and Structures Bureau.

Fiscal Impact

The Department is unable to determine the fiscal impact of allowing a local authority to issue a special permit granting operation over a bridge within its jurisdiction of a self-propelled implement of husbandry used exclusively for the application of organic or inorganic plant food materials, agricultural limestone or agricultural chemicals with excess weight. Special permits cost \$35 for single trip and \$200 for multitrip. Unladen self-propelled implements of husbandry typically do not exceed legal axle loads. Fully laden self-propelled implements of husbandry are estimated to have axle loads that will not permit them to cross many bridges. It is difficult to estimate how many operators will apply for a special permit to operate these self-propelled implements of husbandry partially laden.

Jobs Impact

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

Waivers

This rule does not provide for waivers because issuance of permits is at the discretion of local authorities.

Public Comment

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on August 4, 2020. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Strategic Communications and Policy Bureau
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

If requested, a public hearing to hear requested oral presentations will be held via conference call. Persons who wish to participate in the conference call should contact Tracy George before 4:30 p.m. on

TRANSPORTATION DEPARTMENT[761](cont'd)

August 4, 2020, to facilitate an orderly hearing. A conference call number will be provided to participants prior to the hearing.

August 6, 2020
10 a.m.

Department of Transportation
800 Lincoln Way
Ames, 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 Tracy George, the Department's rules administrator, and advise of specific needs.

The public hearing will be canceled without further notice if no oral presentation is requested.

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 rule 761—181.1(321) as follows:

761—181.1(321) Statewide standard.

181.1(1) Special permits.

a. A local authority may issue a special permit, based on this rule, allowing the operation over a bridge within its jurisdiction of a fence-line feeder, grain cart, tank wagon or tracked implement of husbandry with a weight in excess of the weights allowed under Iowa Code chapter 321.

b. A local authority may issue a special permit, based on this rule, allowing the operation over a bridge within its jurisdiction of a self-propelled implement of husbandry used exclusively for the application of organic or inorganic plant food materials, agricultural limestone or agricultural chemicals with a weight in excess of weight limitations established by the local authority by ordinance or resolution but within the weight limitations imposed by Iowa Code chapter 321.

181.1(2) A local authority shall evaluate a bridge according to section 6 of the American Association of State Highway and Transportation Officials (AASHTO) Manual for Bridge Evaluation (MBE), Third Edition (2018). The operating level shall be used for the evaluation of the bridge with only one fence-line feeder, grain cart, tank wagon, self-propelled implement of husbandry as fully described in paragraph 181.1(1) "b," or tracked implement of husbandry on the bridge at a time. The live load to be used in the analysis for permit decisions should be the actual vehicle crossing the bridge, together with a dynamic load allowance in accordance with section 6A.4.4.3 or 6A.4.5.5 of the AASHTO MBE, Third Edition (2018).

181.1(3) No change.

181.1(4) The AASHTO ~~publications~~ publication may be ordered from the website www.transportation.org. ~~They~~ The publication may be inspected at the department's ~~office of bridges and structures bureau~~.

This rule is intended to implement Iowa Code sections 321.1, 321.463(4) and 321.471.

ARC 5080C**TRANSPORTATION DEPARTMENT[761]****Notice of Intended Action****Proposing rule making related to electric vehicle fees
and providing an opportunity for public comment**

The Department of Transportation hereby proposes to amend Chapter 400, “Vehicle Registration and Certificate of Title,” and Chapter 505, “Interstate Motor Vehicle Fuel Licenses and Permits,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 307.12 and 452A.59.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 452A and Iowa Code sections 321.116 and 321.117 and 2019 Iowa Acts, House File 767, sections 1, 2, 4, 5, 23 and 28 to 32.

Purpose and Summary

This proposed rule making updates Chapters 400 and 505 to align the rules with Iowa Code sections 321.116 and 321.117 and chapter 452A as amended by 2019 Iowa Acts, House File 767, sections 1, 2, 4, 5, 23 and 28 to 32. Sections 1, 2, 4 and 5 of House File 767 were effective January 1, 2020. Sections 23 and 28 to 32 have a delayed effective date of July 1, 2023.

House File 767 required a special annual registration fee for an electric vehicle that is in addition to the annual registration fee assessed based on a vehicle’s weight and value. The legislation also established an additional registration fee for a battery electric vehicle (BEV) or a plug-in hybrid electric vehicle (PHEV), in addition to the registration fee based on the model year. The legislation was enacted because, while Iowa motor fuel taxes are the largest single source of revenue for road and bridge funding in Iowa, fuel tax revenue is declining as average fuel efficiency is increasing and electric vehicles are entering the market. As a result, increasing and significant losses to critical state road and bridge funding has been predicted, especially as more electric vehicles are purchased and their usage increases.

There are three fee levels and three successive implementation dates for electric vehicles, depending upon vehicle type (BEV, PHEV or BEV/PHEV motorcycle), as demonstrated by the following table:

Vehicle Type	January 1, 2020, Fee	January 1, 2021, Fee	January 1, 2022, Fee
BEV	\$65.00	\$97.50	\$130.00
PHEV	\$32.50	\$48.75	\$ 65.00
Motorcycle (BEV or PHEV)	\$ 4.50	\$ 6.75	\$ 9.00

The following paragraphs explain the proposed rule making:

The proposed amendments to rule 761—400.1(321) add a new definition for an “electric vehicle annual registration fee” to describe the new annual registration fee that will be assessed for a BEV and PHEV, in addition to the traditional annual registration fee assessed based on the weight and value of the vehicle. The definition provides that any reference to an annual registration fee in Chapter 400 shall include the electric vehicle annual registration fee, if that is the type of vehicle that is the subject of the registration action, unless otherwise specifically addressed. Also, the proposed amendments to rule 761—400.1(321) modify the definition of “half-year fee” to provide that a half-year fee does not include an electric vehicle annual registration fee because the electric vehicle annual registration fee only applies

TRANSPORTATION DEPARTMENT[761](cont'd)

to vehicles registered under Iowa Code section 321.109(1)“a” and vehicles with half-year registration fees are excluded from registration under Iowa Code section 321.109.

The proposed amendment to subparagraph 400.16(2)“c”(2), which addresses procedures for application for title and registration for a specially reconstructed vehicle, provides that the Department shall determine if the vehicle being examined for purposes of obtaining a title is subject to the electric vehicle annual registration fee.

The proposed amendment to paragraph 400.32(2)“b,” which addresses vehicles owned by nonresident members of the armed services, states that if a nonresident is seeking to register a BEV or PHEV in Iowa under rule 761—400.32(321), the electric vehicle annual registration fee will apply. House File 767 did not authorize the Department to waive electric vehicle registration fees for nonresident members of the armed services. Additionally, the existing rules provide that a person who qualifies to register a vehicle under subrule 400.32(2) is still required to pay the standard registration fee based on the weight of the vehicle.

The proposed amendment to subrule 400.44(1), which addresses penalties on registration fees, provides that if multiple penalties for delinquent registration fees are assessed, such as if an applicant is delinquent on paying the regular annual registration fee and the electric vehicle annual registration fee, then the resultant penalty amounts will be added together first, and the sum will be rounded to the nearest whole dollar.

The proposed amendment to subrule 400.60(1), which addresses credits of registration fees, provides that while there is no credit available for the unexpired portion of the electric vehicle annual registration fee, that fee will still be eligible for a refund under the provisions of rule 761—400.50(321,326). A refund is required in lieu of a credit to allow for the necessary accounting reconciliation for county treasurers collecting registration fees.

The proposed amendments to rule 761—505.1(452A) add definitions for “electric fuel,” “fuel supply tank,” and “hydrogen gallon” to conform with House File 767, which established new definitions for all those terms, and to align with the current Department practice of directing individuals seeking copies of the International Fuel Tax Agreement (IFTA) to the IFTA website.

The proposed amendment to subrule 505.3(2), which addresses non-IFTA member requirements, provides that on or after July 1, 2023, the non-IFTA member must not enter Iowa with more than 350 kilowatt hours of electric fuel, making this provision consistent with the current requirement that a non-IFTA member may not enter Iowa with more than 30 gallons of traditional (non-electric) fuel.

The proposed amendments to subrule 505.3(3), which addresses the determination of fuel supply process, add a diesel gallon equivalent to the traditional fuel determination and include the method of determination of the fuel supply and amount of fuel for electric fuel.

The proposed amendments to subrule 505.3(9), which addresses temporary fuel permits, align with current procedures in that truck stops are no longer designated by the Department to issue temporary fuel permits. The Department has extensively updated the Department’s website to provide for an online application process for temporary fuel permits, in addition to still allowing application by mail or fax. This subrule is also updated to strike outdated procedures related to utilizing Vital Chek and monthly billing options to pay the temporary fuel permit fees.

Finally, the proposed amendments to subrule 505.4(13), which addresses the Department’s duty to estimate gallonage to determine tax liability, include the Department’s authority to estimate kilowatt hours used, which aligns with the new duty to compute and collect interstate motor fuel taxes on electric fuel.

Fiscal Impact

While the administrative rules themselves do not cause a fiscal impact, the underlying legislation has resulted in approximately \$83,156 in fees being deposited into the Road Use Tax Fund as of March 31, 2020.

TRANSPORTATION DEPARTMENT[761](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 person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on August 4, 2020. Comments should be directed to:

Tracy George
 Department of Transportation
 DOT Rules Administrator, Strategic Communications and Policy Bureau
 800 Lincoln Way
 Ames, Iowa 50010
 Email: tracy.george@iowadot.us

Public Hearing

If requested, a public hearing to hear requested oral presentations will be held via conference call. Persons who wish to participate in the conference call should contact Tracy George before 4:30 p.m. on August 4, 2020, to facilitate an orderly hearing. A conference call number will be provided to participants prior to the hearing.

August 5, 2020
 10 to 11 a.m.

Department of Transportation
 Motor Vehicle Division
 6310 SE Convenience Boulevard
 Ankeny, 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 Tracy George, the Department's rules administrator, and advise of specific needs.

The public hearing will be canceled without further notice if no oral presentation is requested.

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Adopt the following **new** definition of "Electric vehicle annual registration fee" in rule **761—400.1(321)**:

"*Electric vehicle annual registration fee*" means an annual registration fee for a battery electric or plug-in hybrid electric motor vehicle as provided in Iowa Code sections 321.116 and 321.117. Unless

TRANSPORTATION DEPARTMENT[761](cont'd)

otherwise provided, for purposes of this chapter, any reference to a registration fee shall also include an annual registration fee for a battery electric or plug-in hybrid electric motor vehicle if that vehicle is a battery electric or plug-in hybrid electric motor vehicle as defined in Iowa Code sections 321.116 and 321.117.

ITEM 2. Amend rule **761—400.1(321)**, definition of “Half-year fee,” as follows:

“*Half-year fee*” means the first semiannual installment of an annual registration fee but does not include an electric vehicle annual registration fee. The term “half-year registration” shall be synonymous with the term “half-year fee.”

ITEM 3. Amend rule **761—400.1(321)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.1, 321.8, 321.20, 321.23, 321.24, 321.40, 321.45, 321.50, 321.116, 321.117, 321.123, 321.134, 321.157 and 322.2.

ITEM 4. Amend subparagraph **400.16(2)“c”(2)** as follows:

(2) If the vehicle is a passenger-type motor vehicle, the department shall determine its weight and value. The department shall also determine if the vehicle is subject to the electric vehicle annual registration fee. The vehicle weight shall be fixed at the next even 100 pounds above the actual weight of the vehicle fully equipped, as provided in Iowa Code section 321.162. The weight and value shall constitute the basis for determining the annual registration fee under Iowa Code section 321.109, except as provided in Iowa Code section 321.113.

ITEM 5. Amend rule **761—400.16(321)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.20, 321.23, 321.24, 321.52, 321.109, 321.116, 321.117 and 321.162.

ITEM 6. Amend paragraph **400.32(2)“b”** as follows:

b. The fee for a passenger-type vehicle registered under Iowa Code section 321.109 shall be based only on the weight of the vehicle; the part of the fee based on value shall be excluded. The fees for all other vehicles shall be determined as specified in Iowa Code chapter 321. The registration fee under Iowa Code sections 321.116 and 321.117 shall apply.

ITEM 7. Amend rule **761—400.32(321)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.53 to 321.55, ~~and~~ 321.109, 321.116 and 321.117.

ITEM 8. Amend subrule 400.44(1) as follows:

400.44(1) Monthly basis. The penalty on the delinquent payment of a registration fee shall be computed on a monthly basis, rounded to the nearest whole dollar. If multiple penalties are assessed, the penalties shall be first added together and then the sum shall be rounded to the nearest whole dollar.

ITEM 9. Amend subrule 400.60(1), introductory paragraph, as follows:

400.60(1) Credit for unexpired registration fee. The applicant may claim credit, as specified in Iowa Code ~~subsection~~ section 321.46(3), toward the registration fee for one newly acquired replacement vehicle. No credit shall be given for an unexpired electric vehicle annual registration fee; however, an unexpired electric vehicle annual registration fee is eligible for a refund as provided in rule 761—400.50(321,326).

ITEM 10. Amend rule **761—400.60(321)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.46, 321.46A, 321.48, 321.116, 321.117, 321.126 and 321.127.

ITEM 11. Adopt the following **new** definitions of “Electric fuel,” “Fuel supply tank” and “Hydrogen gallon” in rule **761—505.1(452A)**:

“*Electric fuel*” means electrical energy delivered or placed into the battery or other energy storage device of an electric motor vehicle from a source outside the motor vehicle for purposes of propelling the motor vehicle as defined in Iowa Code section 452A.40 as enacted by 2019 Iowa Acts, House File 767, section 23.

TRANSPORTATION DEPARTMENT[761](cont'd)

“*Fuel supply tank*” means a motor vehicle’s hydrogen fuel cells if the motor vehicle uses hydrogen as a special fuel.

“*Hydrogen gallon*” means a diesel gallon equivalent. A diesel gallon equivalent of hydrogen weighs 2.49 pounds.

ITEM 12. Amend rule **761—505.1(452A)**, definitions of “IFTA member jurisdiction” and “Non-IFTA member jurisdiction,” as follows:

“*IFTA member jurisdiction*” means a jurisdiction that is a member of the International Fuel Tax Agreement. A list of jurisdictions and their membership statuses may be obtained by contacting the ~~office of~~ vehicle and motor carrier services bureau.

“*Non-IFTA member jurisdiction*” means a jurisdiction that is not a member of the International Fuel Tax Agreement. A list of jurisdictions and their membership statuses may be obtained by contacting the ~~office of~~ vehicle and motor carrier services bureau.

ITEM 13. Amend rule **761—505.1(452A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 452A.2 and 452A.57 and section 452A.40 as enacted by 2019 Iowa Acts, House File 767, section 23.

ITEM 14. Amend rule 761—505.2(452A) as follows:

761—505.2(452A) General information.

505.2(1) Information and location. Applications, forms and information on interstate motor vehicle fuel permits and licenses are available by mail from the ~~Office of~~ Vehicle and Motor Carrier Services Bureau, Iowa Department of Transportation, P.O. Box 10382, Des Moines, Iowa 50306-0382; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at ~~(515)237-3224~~ (515)237-3268; ~~or~~ by facsimile at ~~(515)237-3354~~ (515)237-3225; by email at omcs@iowadot.us; or on the department’s website at www.iowadot.gov.

505.2(2) Organizational data. The ~~office of~~ vehicle and motor carrier services of the department’s motor vehicle division bureau is authorized, pursuant to Iowa Code chapter 452A, division III, to:

a. to c. No change.

d. Administer agreements with other jurisdictions for the collection and refund of interstate motor fuel tax. In accordance with this, the department has adopted the International Fuel Tax Agreement (IFTA). Such agreement and any revisions thereto are hereby incorporated into this chapter. International Fuel Tax Agreement governing documents do not create rights in the taxpayer. A copy of the agreement may be obtained by contacting the ~~office of motor carrier services or~~ may be reviewed through the Internet at www.iftach.org.

505.2(3) No change.

This rule is intended to implement Iowa Code sections 452A.51 and 452A.56.

ITEM 15. Amend rule 761—505.3(452A) as follows:

761—505.3(452A) General stipulations.

505.3(1) No change.

505.3(2) Non-IFTA member requirements. The operator of a qualified motor vehicle based in a non-IFTA member jurisdiction must do one of the following:

a. to c. No change.

d. On or after July 1, 2023, enter the state with less than 350 kilowatt hours of electric fuel.

~~d. e.~~ Enter the state with only Iowa tax paid fuel.

505.3(3) Determination of fuel supply.

a. To determine if a vehicle has entered the state with more than 30 gallons of fuel, the total of all fuel in all tanks that could be used to fuel the power source of the vehicle shall be considered to reach a total gallonage, or diesel gallon equivalent. The fuel tank connected to a “reefer unit” which can neither be directly nor indirectly connected to the power source of the vehicle shall not be considered in arriving at the ~~30-gallon~~ 30-gallon total.

TRANSPORTATION DEPARTMENT[761](cont'd)

b. To determine if a vehicle has entered the state with more than 350 kilowatt hours of electric fuel, the total of all electric fuel in the batteries or other energy storage devices of a commercial motor vehicle shall be considered to reach total kilowatt hours, regardless of whether the batteries or storage devices are connected to the motor of the vehicle.

505.3(4) Fuel license.

a. A fuel license may be obtained from the ~~office of vehicle and motor carrier services bureau~~ at a cost of \$10. The application must be complete and include, ~~but not be limited to,~~ the following information:

- (1) Name and address of company, corporation, or owner who operates or controls the qualified motor vehicle(s);
- (2) Name(s) and address(es) of principal or corporate officers;
- (3) Signature and telephone number of contact person; ~~and~~
- (4) A power of attorney if someone other than an officer or employee of the company will be completing quarterly reports or requesting information from the department; ~~and~~
- (5) Any other information required by the department.

b. No change.

505.3(5) No change.

505.3(6) Possession of the license or temporary permit. A license or temporary permit must be carried in the vehicle to meet the requirements of Iowa Code chapter 452A. ~~Several vehicles~~ More than one vehicle may be operated and reported under the same license by making a photocopy of the license and carrying it in each vehicle operating under said license. A license, copy of a license or temporary permit is void if altered. A duplicate license may be purchased from the ~~office of vehicle and motor carrier services bureau~~ for a ~~charge of~~ 50 cents.

505.3(7) No change.

505.3(8) Bond requirements.

a. and *b.* No change.

c. A copy of such bond shall be filed with the ~~office of vehicle and motor carrier services bureau~~ before a new license shall be issued. The ~~office of vehicle and motor carrier services bureau~~ shall be notified of bond cancellation 30 days before the cancellation is effective.

505.3(9) Temporary fuel permits.

a. A temporary fuel permit may be obtained by any person operating a qualified motor vehicle that is not otherwise covered by a license. The temporary permit may be obtained from the ~~office of vehicle and motor carrier services bureau~~ at a cost of \$20. The temporary permit may also be obtained from permit services; or processing agents or truck stops designated by the department. ~~A designated list of authorized business locations may be obtained from the office of motor carrier services upon request.~~ An application for a temporary permit may be made by phone, by facsimile or electronically to the ~~office of vehicle and motor carrier services bureau~~. Permittees who purchase temporary fuel permits in advance of use may not return unused permits for refund.

b. No change.

~~*c.* Application may be made to the office of motor carrier services or at locations designated by the department. Alternate locations designated shall be approved "truck stops" as defined in Iowa Code section 326.23. These truck stops shall obtain prepaid temporary fuel permits at a cost of \$20 each. If a truck stop subsequently ceases to sell temporary permits, the remaining unissued permits may be redeemed at the office of motor carrier services for the same price paid to obtain them. When a temporary permit is purchased from the truck stop, it shall be issued at a price of \$20 plus any specific cost attributable directly to that purchase. The effective date of a temporary fuel permit shall be the date and hour of purchase from the truck stop.~~

~~*d. c.* An application for a temporary fuel permit shall include, but is not limited to, the following information:~~

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

~~*e. d.* The temporary permit fee shall also accompany the application unless a method of collection upon delivery is requested.~~

TRANSPORTATION DEPARTMENT[761](cont'd)

~~f. e.~~ A temporary permit shall not be transferred and is valid only for the carrier and the vehicle that are described on the permit. Once a temporary permit has been issued to a qualified motor vehicle, the purchase price is nonrefundable.

~~g. f.~~ The temporary permit must be completed and carried in the qualified motor vehicle for which it is issued.

~~h. g.~~ The 72-hour period for which the temporary permit is valid may be extended for “emergencies,” such as extreme weather conditions when travel is not advisable or other instances, at the discretion of the ~~office of~~ vehicle and motor carrier services bureau.

~~i. h.~~ A temporary fuel permit is invalid if the permittee has outstanding IFTA fuel tax bills.

~~j. i.~~ Fees for a temporary permit may be paid by cash, company or personal check, or credit card through Vital Chek. ~~At the discretion of the department, a payment procedure may also be established to allow for monthly billing. The following procedures shall apply:~~

~~(1) Applicants shall deposit sufficient funds with the permit issuing authority to guarantee payment of fees for the average number of permits ordered monthly. Deposits may be used to pay outstanding fees due when payment is not received upon billing.~~

~~(2) Monthly billings shall be sent to account holders.~~

~~(3) All future permit activity may be suspended after written notice of suspension to the account holder when the following requirements are not met:~~

~~1. Payment shall be received within 30 days from the date of the billing.~~

~~2. All information listed on the account holder’s permit shall match the information listed on the permit issuing authority’s permit.~~

~~(4) Account privileges may be permanently canceled for cause after written notice to the account holder.~~

~~(5) Any account holder in good standing may close the account and request return of the deposit. Accounts closed under these circumstances may be reopened.~~

505.3(10) No change.

This rule is intended to implement Iowa Code sections 452A.52, 452A.53, 452A.54, 452A.58 and 452A.68.

ITEM 16. Amend rule 761—505.4(452A) as follows:

761—505.4(452A) Quarterly reports.

505.4(1) to 505.4(5) No change.

505.4(6) *Timely filing of report.*

a. The interstate fuel tax report required under Iowa Code section 452A.54 shall be deemed timely filed if received ~~in~~ by the ~~office of~~ vehicle and motor carrier services bureau or postpaid, properly addressed, and postmarked by the United States Postal Service on or before midnight of the filing deadline. If the filing date falls on a Saturday, Sunday, or legal holiday, the next secular or business day shall be the filing deadline.

b. All reports and remittances shall be ~~either~~ filed online at the department’s website; mailed to the ~~Office of Vehicle and Motor Carrier Services Bureau~~, Iowa Department of Transportation, P.O. Box 10382, Des Moines, Iowa 50306-0382; delivered in person to 6310 SE Convenience Blvd., Ankeny, Iowa; or sent by facsimile to ~~(515)237-3257~~ (515)237-3225.

c. No change.

505.4(7) to 505.4(11) No change.

505.4(12) *Reports, records and variations.* The department shall prescribe and furnish all forms upon which reports, claims for refund, temporary permits, and license applications shall be made under Iowa Code chapter 452A, division III.

a. No change.

b. The fact that the reporting party does not have the prescribed form shall not be an acceptable reason for failure to file. The ~~office of~~ vehicle and motor carrier services bureau may be contacted to request copies of any necessary forms needed.

505.4(13) *Estimating gallonage or kilowatt hours used.*

TRANSPORTATION DEPARTMENT[761](cont'd)

a. In the event the taxpayer's records are lacking or inadequate to support any report filed or to determine the tax liability, the department ~~shall have the power~~ is authorized to estimate the gallage or kilowatt hours used upon which tax is due. This estimation shall be based upon such factors as, but not limited to, the following:

(1) to (5) No change.

b. No change.

505.4(14) and **505.4(15)** No change.

505.4(16) *Supplemental billings.* The amount due is payable upon being billed by the ~~office of~~ vehicle and motor carrier services bureau. Billings shall be generated by the department for the collection of additional amounts due in the following circumstances:

a. to f. No change.

This rule is intended to implement Iowa Code sections 452A.54, 452A.55, 452A.60, 452A.61, 452A.63, 452A.64, and 452A.65.

ITEM 17. Amend paragraph **505.6(2)“b”** as follows:

b. If a licensee disputes the findings of an investigation or audit by the department, the licensee may request a hearing to present further evidence, information or records to support the claim. The written request for hearing shall be directed to the attention of the director of the ~~office of vehicle and motor carrier services~~ bureau within 30 days of the date of notice of audit results issued by the department.

ARC 5086C

VOLUNTEER SERVICE, IOWA COMMISSION ON[817]

Notice of Intended Action

Proposing rule making related to contact information and meeting minutes and providing an opportunity for public comment

The Iowa Commission on Volunteer Service hereby proposes to amend Chapter 1, “Organization and Operation,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code chapter 15H.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 15H.

Purpose and Summary

The purpose of these amendments is to update the contact information for the Commission and the location of the minutes of the Commission meetings.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

VOLUNTEER SERVICE, IOWA COMMISSION ON[817](cont'd)

Public Comment

Any interested person may submit comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Commission no later than 4:30 p.m. on August 4, 2020. Comments should be directed to:

Adam Lounsbury
Iowa Commission on Volunteer Service
1963 Bell Avenue, Suite 200
Des Moines, Iowa 50315
Email: adam.lounsbury@iowaeda.com

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 1.2(1) as follows:

1.2(1) Location. The commission is located at ~~200 East Grand, Des Moines, Iowa 50309~~ 1963 Bell Avenue, Suite 200, Des Moines, Iowa 50315; telephone ~~(515)242-4799~~ 1-800-308-5987. Office hours are 8 a.m. to 4:30 p.m., Monday to Friday. Offices are closed on Saturdays and Sundays and on official state holidays designated in accordance with state law.

ITEM 2. Amend subrule 1.2(4) as follows:

1.2(4) Minutes. The minutes of all commission meetings shall be recorded and kept ~~by the administrative assistant~~ in the commission office.

ARC 5088C

VOLUNTEER SERVICE, IOWA COMMISSION ON[817]

Notice of Intended Action

Proposing rule making related to mentor/mentee texting program and providing an opportunity for public comment

The Iowa Commission on Volunteer Service hereby proposes to amend Chapter 13, “Future Ready Iowa Volunteer Mentor Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 15H.10.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 15H.10.

VOLUNTEER SERVICE, IOWA COMMISSION ON[817](cont'd)

Purpose and Summary

These proposed amendments are intended to incorporate and clarify inclusion of the texting program and allow for simplified enrollment in the program by students in rule 817—13.4(15H) and subrule 13.5(1).

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Commission no later than 4:30 p.m. on August 4, 2020. Comments should be directed to:

Adam Lounsbury
Iowa Commission on Volunteer Service
1963 Bell Avenue, Suite 200
Des Moines, Iowa 50315
Email: adam.lounsbury@iowaeda.com

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 817—13.4(15H) as follows:

817—13.4(15H) Mentor/mentee agreement. All volunteer mentors and student mentees matched with a volunteer mentor must complete and sign a written agreement issued by the commission as part of the program enrollment process. This does not include students receiving texting services only. Agreements will include expectations on regular communication, appropriate conduct, utilization of the online platform and participation in any training or resources offered to improve the efficacy of the mentor-mentee relationship. Failure by either party to adhere to the agreement may result in dismissal from the program.

VOLUNTEER SERVICE, IOWA COMMISSION ON[817](cont'd)

ITEM 2. Amend subrule 13.5(1) as follows:

13.5(1) *Mentor request process.* Students may request a volunteer mentor through the commission's website or partner agencies, including through referrals from high schools and eligible institutions. Eligible institutions must collaborate in the facilitation of this subrule by providing information on the mentor request process to all students who meet the criteria of 2018 Iowa Acts, chapter 1067, sections 12 and 13. The Iowa college aid commission may enroll eligible students into the texting services whenever possible to facilitate overall student success and communication about career mentoring opportunities. Students may opt to not participate in the program.

ARC 5089C

LABOR SERVICES DIVISION[875]

Adopted and Filed Emergency After Notice

Rule making related to conveyances

The Elevator Safety Board hereby amends Chapter 72, “Conveyances Installed On or After January 1, 1975,” and Chapter 73, “Conveyances Installed Prior to January 1, 1975,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 89A.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 89A.

Purpose and Summary

These amendments extend a deadline for upgrading safety features on certain older elevators.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on May 20, 2020, as **ARC 5040C**. No public comments were received. No changes from the Notice have been made.

Reason for Waiver of Normal Effective Date

Pursuant to Iowa Code section 17A.5(2)“b”(1)(b), the Board 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 25, 2020, because the delay confers a benefit on the building owners. The purpose of these changes is to delay enforcement of the American Society of Mechanical Engineers’ A17.3 Safety Code for Existing Elevators and Escalators. Due to the COVID-19 pandemic, many businesses have experienced shutdowns and other disruptions that have delayed completion of the required upgrades. As a result, the Board has determined that a one-year enforcement delay is appropriate.

Adoption of Rule Making

This rule making was adopted by the Board on June 24, 2020.

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 875—Chapter 66.

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

LABOR SERVICES DIVISION[875](cont'd)

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

Effective Date

This rule making became effective on June 25, 2020.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 72.10(2), introductory paragraph, as follows:

72.10(2) Except as noted in this rule, the American Society of Mechanical Engineers Safety Code for Existing Elevators and Escalators, A17.3 (2011), is adopted by reference with an enforcement date of May 1, ~~2020~~ 2021.

ITEM 2. Amend subrule 73.1(3), introductory paragraph, as follows:

73.1(3) Except as noted in this rule, the American Society of Mechanical Engineers Safety Code for Existing Elevators and Escalators, A17.3 (2011), is adopted by reference with an enforcement date of May 1, ~~2020~~ 2021.

ITEM 3. Amend subrule 73.1(4) as follows:

73.1(4) The American Society of Mechanical Engineers Safety Code for Elevators and Escalators, A17.1-2013/CSA B44-13 (2013), Rule 2.14.7.1.4, concerning car top lighting and car top electrical outlets, is adopted by reference with an effective date of May 1, ~~2020~~ 2021. However, if a car top already has a single outlet, installation of a duplex outlet will not be required.

ITEM 4. Amend subrule 73.1(5) as follows:

73.1(5) Rules 875—73.2(89A) to 875—73.6(89A), 875—73.9(89A) to 875—73.17(89A), 875—73.19(89A), 875—73.22(89A), and 875—73.24(89A) and subrules 73.1(2), 73.7(1) to 73.7(9), 73.7(11), 73.18(1), and 73.18(3) to 73.18(7) shall be superseded by corresponding provisions of A17.3 (2011) on May 1, ~~2020~~ 2021.

[Filed Emergency After Notice 6/24/20, effective 6/25/20]

[Published 7/15/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/15/20.

ARC 5090C

BANKING DIVISION[187]

Adopted and Filed

Rule making related to regulated loan interest rates

The Iowa Division of Banking (IDOB) hereby amends Chapter 15, “Regulated Loans,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 17A.3, 536.13 and 536.21.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 536.13.

Purpose and Summary

This amendment revises the maximum interest rate brackets for lenders licensed under Iowa Code chapter 536. Currently, the maximum interest rates such lenders may charge are 36 percent APR on any part of an unpaid balance not exceeding \$3,000, 24 percent APR on any part of an unpaid balance that exceeds \$3,000 but does not exceed \$8,400, and 18 percent APR on any part of an unpaid balance that exceeds \$8,400 but does not exceed \$10,000.

In 2019, the Legislature enacted 2019 Iowa Acts, House File 260, which amended the authority of the Superintendent of Banking to establish maximum interest rates by rule for lenders licensed under Iowa Code chapter 536. Pursuant to Iowa Code section 536.13(7)“a” as amended by 2019 Iowa Acts, House File 260, the Superintendent is now authorized to establish maximum rates for loans with an unpaid balance of \$30,000 or less, rather than an unpaid balance of \$10,000 or less. This amendment extends the range of the 18 percent bracket and authorizes lenders licensed under Iowa Code chapter 536 to charge an interest rate of 18 percent APR on any part of an unpaid balance exceeding \$8,400 but not exceeding \$30,000.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 15, 2020, as **ARC 4852C**. No public comments were received. Since publication of the Notice, the effective date specified in the rule has been corrected to September 1, 2020.

Adoption of Rule Making

This rule making was adopted by the Superintendent of Banking on June 16, 2020.

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 Division for a waiver of the discretionary provisions, if any, pursuant to 187—Chapter 12.

BANKING DIVISION[187](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).

Effective Date

This rule making will become effective on September 1, 2020.

The following rule-making action is adopted:

Amend subrule 15.13(3) as follows:

15.13(3) Interest rate. Pursuant to the power granted to the superintendent under Iowa Code sections 536.13(1) "b" and 536.13(2), the maximum rate of interest that may be charged beginning ~~July 1, 2017~~ September 1, 2020, and until such time as a different rate is fixed by the superintendent, is 36 percent per annum on any part of the unpaid balance not exceeding \$3,000 and 24 percent per annum on any part of the unpaid balance in excess of \$3,000, but not exceeding \$8,400 and 18 percent per annum on any part of the unpaid balance in excess of \$8,400, but not exceeding ~~\$10,000~~ \$30,000.

[Filed 6/16/20, effective 9/1/20]

[Published 7/15/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/15/20.

ARC 5091C

BANKING DIVISION[187]

Adopted and Filed

Rule making related to licensing sanctions regarding student loan debt

The Iowa Division of Banking hereby amends Chapter 19, "Mortgage Loan Originators," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 17A.3 and 535D.21.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 17A and 535D.

Purpose and Summary

These amendments rescind the Division's rules regarding denying an application for a mortgage loan originator (MLO) license when the applicant is in default or delinquent on student loan debt as determined by the College Student Aid Commission pursuant to Iowa Code chapter 261. In 2019, the Legislature enacted 2019 Iowa Acts, Senate File 304, which repealed Iowa Code sections 261.121 to 261.127, effectively repealing the provisions whereby the College Student Aid Commission could issue a certificate of noncompliance for failure to repay student loans. The amendments reflect the changes made by Senate File 304 and rescind the Division's rules implementing the now-defunct certificate of noncompliance program.

BANKING DIVISION[187](cont'd)

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 26, 2020, as **ARC 4941C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Superintendent of Banking on June 16, 2020.

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 Division for a waiver of the discretionary provisions, if any, pursuant to 187—Chapter 12.

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 19, 2020.

The following rule-making actions are adopted:

- ITEM 1. Rescind paragraph **19.3(2)“i.”**
- ITEM 2. Reletter paragraph **19.3(2)“j”** as **19.3(2)“i.”**
- ITEM 3. Rescind and reserve rule **187—19.14(17A,261)**.

[Filed 6/17/20, effective 8/19/20]

[Published 7/15/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/15/20.

ARC 5092C

ECONOMIC DEVELOPMENT AUTHORITY[261]**Adopted and Filed****Rule making related to rural housing needs assessment grant program**

The Economic Development Authority hereby adopts new Chapter 220, “Rural Housing Needs Assessment Grant Program,” Iowa Administrative Code.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 15.106A.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2019 Iowa Acts, Senate File 608.

Purpose and Summary

Pursuant to 2019 Iowa Acts, Senate File 608, the Authority established a Rural Housing Needs Assessment Grant Program to support the interpretation and implementation of hard data and housing-related information specific to the communities applying for financial assistance under this program. This grant program supports the use of publicly available information and supports community efforts to interpret hard data with supplemental information and to help communities implement changes to development codes, local ordinances, and housing incentives according to the community's needs. These rules provide for the administration of the program.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 20, 2019, as **ARC 4774C**. No public comments were received.

Following further discussions with the Governor's office and the Empower Rural Iowa Task Force, the Authority determined that both this program and the Rural Innovation Grant Program should have the same population requirement. Paragraph 220.4(1)"b" now requires that the applicant have a population of 20,000 or fewer, instead of 10,000 or fewer.

Adoption of Rule Making

This rule making was adopted by the Authority on February 21, 2020.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa beyond the funding allocated by 2019 Iowa Acts, Senate File 608.

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 Authority for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

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 19, 2020.

The following rule-making action is adopted:

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

Adopt the following new 261—Chapter 220:

CHAPTER 220
RURAL HOUSING NEEDS ASSESSMENT GRANT PROGRAM

261—220.1(88GA,SF608) Purpose. Pursuant to 2019 Iowa Acts, Senate File 608, the authority is directed to establish a rural housing needs assessment grant program to support the interpretation and implementation of hard data and housing-related information specific to the communities applying for financial assistance under this program. This grant program is intended to support the use of publicly available information and support community efforts to interpret hard data with supplemental information and to help communities implement changes to development codes, local ordinances, and housing incentives according to the community's needs.

261—220.2(88GA,SF608) Definitions. For purposes of this chapter, unless the context otherwise requires:

“*Agreement*” means a contract for financial assistance under the program describing the terms on which financial assistance is to be provided.

“*Applicant*” means an Iowa city applying for financial assistance under the program. The terms “applicant” and “community” may be used interchangeably in this chapter.

“*Authority*” means the economic development authority created in Iowa Code section 15.105.

“*Director*” means the director of the authority.

“*Financial assistance*” means a grant made by the authority to an applicant approved for funding under the program.

“*Program*” means the procedures, agreement, terms, and assistance established and provided pursuant to this chapter.

261—220.3(88GA,SF608) Program description.

220.3(1) Amount, form, and timing of assistance. This program provides financial assistance to applicants to support the interpretation and implementation of hard data and housing-related information specific to the communities applying for a grant under this program. The amount of assistance awarded will be determined by the authority and will be based on the total amount of funds available to the authority for the program and the costs specified in the application. Each award shall not be less than \$1,000.

220.3(2) Application.

a. Forms. All applications and other filings related to the program shall be on such forms and in accordance with such instructions as may be established by the authority. Information about the program, the application, and application instructions may be obtained by contacting the authority or by visiting the authority's website: Iowa Economic Development Authority, Community Development Division, 200 East Grand Avenue, Des Moines, Iowa 50309, (515)328-3000, iowaeconomicdevelopment.com.

b. Application period. Each fiscal year during which funding is available, applications for financial assistance will only be accepted during the established application period, or periods, as identified by the authority on its website.

c. Complete application required. An application shall not be considered submitted for review until the application is completed and all required supporting documentation and information are provided to the authority.

220.3(3) Approval of assistance. Authority staff will review applications for financial assistance under the program, and a grant committee will score and recommend applications to the director in accordance with subrule 220.4(2). A project that does not receive funding may reapply.

220.3(4) Agreement required. The authority shall enter into an agreement with each applicant for the receipt of a grant under this chapter. The agreement must state the terms on which financial assistance is to be provided. The authority may negotiate the terms of the agreement. The applicant shall execute the agreement before funds are disbursed under the program.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

220.3(5) *Form of financial assistance.* The authority will provide financial assistance in the form of a grant to the applicant. The amount of the grant and any other terms shall be included in the agreement required pursuant to this chapter.

220.3(6) *Use of funds.*

a. An applicant shall use funds only for reimbursement of the costs directly related to the project. The authority may require documentation or other information establishing the actual costs incurred for a project. Failure to use the funds for reimbursement of the costs directly related to a project shall be grounds for default under the agreement required pursuant to this chapter.

b. For purposes of this subrule, “costs directly related” does not include any expenses specified as ineligible in the agreement required pursuant to this chapter.

261—220.4(88GA,SF608) Program eligibility, application scoring, and funding decisions.

220.4(1) *Program eligibility.* An applicant must meet the following eligibility criteria to qualify for financial assistance under this program:

- a.* The applicant must be an Iowa city.
- b.* The applicant must have a population of 20,000 or fewer and shall not be contiguous to a city with a population of 40,000 or greater.
- c.* An eligible applicant will be allowed to submit only one application per application period.
- d.* The applicant must demonstrate the capacity for administering a grant.
- e.* The applicant must demonstrate the feasibility of the project’s proposed scope and timeline with the funds requested.
- f.* The applicant must identify and describe other sources of funding for the proposed assessment and related activities.
- g.* The applicant must identify any partner organizations that will be utilized in interpreting and implementing the data collected through the assessment.
- h.* The applicant must provide a cash match of at least 50 cents for every dollar awarded as a grant under this program.

220.4(2) *Application scoring criteria.* All completed applications will be reviewed and scored. Each application will be scored using criteria set forth by the authority.

220.4(3) *Funding decisions.* Funding decisions will be made using the following process:

- a. Staff review.* Each application will be reviewed by staff for eligibility and completeness. Complete applications meeting all eligibility requirements will be sent to a grant committee.
- b. Grant committee review and recommendation.* Following staff review, a grant committee will review and score applications using the criteria set forth by the authority pursuant to subrule 220.4(2) and will make funding recommendations. The committee may utilize an outside technical panel if the committee determines additional expertise is necessary to review and score the application. The application and score will be referred to the director with a recommendation as to whether to fund the project and, if funding is recommended, a recommendation as to the amount of the grant.
- c. Director’s decision.* The director will make the final funding decision on each application, taking into consideration the amount of available funding and the grant committee’s recommendation. The director may approve, deny, or defer funding for any application.
- d. Notification.* Each applicant will be notified in writing of the funding decision within 15 days of the director’s decision.

261—220.5(88GA,SF608) Agreement required.

220.5(1) Each applicant that is approved for financial assistance under the program shall enter into an agreement with the authority for the provision of such financial assistance. The agreement will establish the terms on which the financial assistance is to be provided and may include any other terms reasonably necessary for the efficient administration of the program.

220.5(2) The authority and the applicant may amend the agreement at any time upon the mutual agreement of both the authority and the applicant.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

220.5(3) The agreement may require an applicant that has been approved for financial assistance under the program to submit information reasonably required by the authority to make reports to the authority's board, the governor's office, or the general assembly.

These rules are intended to implement 2019 Iowa Acts, Senate File 608.

[Filed 6/22/20, effective 8/19/20]

[Published 7/15/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/15/20.

ARC 5093C

ECONOMIC DEVELOPMENT AUTHORITY[261]

Adopted and Filed

Rule making related to rural innovation grant program

The Economic Development Authority hereby adopts new Chapter 221, "Rural Innovation Grant Program," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 15.106A.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2019 Iowa Acts, Senate File 608.

Purpose and Summary

Pursuant to 2019 Iowa Acts, Senate File 608, the Authority is establishing a Rural Innovation Grant Program to support creative, nontraditional ideas that focus on current issues and challenges faced by rural communities associated with the themes of community investment, growth, and connection. These rules provide for the administration of the program.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 20, 2019, as **ARC 4775C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Authority on February 21, 2020.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa beyond the funds allocated by 2019 Iowa Acts, Senate File 608.

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 Authority for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

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 19, 2020.

The following rule-making action is adopted:

Adopt the following **new** 261—Chapter 221:

CHAPTER 221
RURAL INNOVATION GRANT PROGRAM

261—221.1(88GA,SF608) Purpose. Pursuant to 2019 Iowa Acts, Senate File 608, the authority is directed to establish a rural innovation grant program to support creative, nontraditional ideas that focus on current issues and challenges faced by rural communities associated with the themes of community investment, growth, and connection.

261—221.2(88GA,SF608) Definitions. For purposes of this chapter, unless the context otherwise requires:

“*Agreement*” means a contract for financial assistance under the program describing the terms on which financial assistance is to be provided.

“*Applicant*” means an Iowa business, college, university, city, county, council of governments organization established by Iowa Code chapter 28H, K-12 educational institution, or private nonprofit agency or foundation applying for financial assistance under the program. A business will be considered an Iowa business if the business is incorporated in the state of Iowa or authorized to do business in the state of Iowa.

“*Authority*” means the economic development authority created in Iowa Code section 15.105.

“*Director*” means the director of the authority.

“*Financial assistance*” means a grant made by the authority to an applicant approved for funding under the program.

“*Program*” means the procedures, agreement, terms, and assistance established and provided pursuant to this chapter.

“*Project*” means a program or activity undertaken in and for the benefit of a community in Iowa with a population of 20,000 or fewer and not contiguous to a city with a population of 40,000 or greater.

261—221.3(88GA,SF608) Program description.

221.3(1) Amount, form, and timing of assistance. The program provides financial assistance to applicants to support creative, nontraditional ideas that focus on current challenges facing rural communities. The amount of assistance awarded will be determined by the authority based on the total amount of funds available to the authority for the program and based on the project details. Each award shall not be less than \$1,000.

221.3(2) Application.

a. Forms. All applications and other filings related to the program shall be on such forms and in accordance with such instructions as may be established by the authority. Information about the program, the application, and application instructions may be obtained by contacting the authority or by visiting the authority's website: Iowa Economic Development Authority, Community Development Division, 200 East Grand Avenue, Des Moines, Iowa 50309, (515)328-3000, iowaeconomicdevelopment.com.

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b. Application period. Each fiscal year during which funding is available, applications for financial assistance will only be accepted during the established application period, or periods, as identified by the authority on its website.

c. Frequency of application. An eligible applicant may only be named as the primary entity on one application per application period. However, an applicant who has applied as the primary entity for an application may also be named as a partner on additional applications submitted.

d. Complete application required. An application shall not be considered submitted for review until the application is completed and all required supporting documentation and information are provided.

221.3(3) Approval of assistance. Authority staff will review applications for financial assistance under the program, and a grant committee will score and recommend applications to the director in accordance with subrule 221.4(2). A project that does not receive funding may reapply.

221.3(4) Agreement required. The authority shall enter into an agreement with each applicant for the receipt of a grant under this chapter. The agreement must state the terms on which the financial assistance is to be provided. The authority may negotiate the terms of the agreement. The applicant shall execute the agreement before funds are disbursed under the program.

221.3(5) Form of financial assistance. The authority will provide financial assistance in the form of a grant to the applicant. The amount of the grant and any other terms shall be included in the agreement required pursuant to this chapter.

221.3(6) Use of funds.

a. An applicant shall use funds only for reimbursement of the costs directly related to the project. The authority may require documentation or other information establishing the actual costs incurred for a project. Failure to use the funds for reimbursement of the costs directly related to a project shall be grounds for default under the agreement required pursuant to this chapter.

b. For purposes of this subrule, “costs directly related” does not include ineligible expenses such as international travel, domestic travel outside the state of Iowa, insurance, training or professional development courses, and any other expenses specified as ineligible in the agreement required pursuant to this chapter.

261—221.4(88GA,SF608) Program eligibility, application scoring, and funding decisions.

221.4(1) Program eligibility. An applicant must meet the following eligibility criteria to qualify for financial assistance under this program:

a. The applicant must meet the definition of “applicant” in rule 261—221.2(88GA,SF608).

b. If the applicant is not a local government entity, the applicant must demonstrate support from the local government entity as evidenced by a letter of support.

c. The applicant must serve a city that has a population of 20,000 or fewer and that is not contiguous to a city with a population of 40,000 or greater.

d. The applicant must demonstrate the capacity for administering a grant.

e. The applicant must provide a cash match of at least 50 cents for every dollar awarded as a grant under this program.

f. The applicant must demonstrate that the project does not consist of ongoing expenses for existing projects or programs.

221.4(2) Application scoring criteria. All completed applications will be reviewed and scored. Each application will be scored using criteria set forth by the authority, which may include the following:

a. Alignment with program purpose. The application should demonstrate that the project aligns with the program purpose by developing a nontraditional, concrete solution to increase rural community vibrancy.

b. Solution-oriented. The application should demonstrate that the project will address rural challenges through exceptional and creative solutions.

c. Replicability. The application should demonstrate a clear opportunity for successful replication in rural communities across the state.

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d. Roles defined. The application should identify and describe the roles of all partners involved in the project.

e. Project goals and timeline. The application should demonstrate clearly defined, measurable goals and a timeline for execution of the project.

f. Project budget and financing. The application should include a complete budget that provides clear justification for all costs. The application should also demonstrate secured financing and that the cash match requirement has been met.

221.4(3) Funding decisions. Funding decisions will be made using the following process:

a. Staff review. Each application will be reviewed by staff for eligibility and completeness. Complete applications meeting all eligibility requirements will be sent to a grant committee.

b. Grant committee review and recommendation. Following staff review, a grant committee will review and score applications using the criteria set forth by the authority pursuant to subrule 221.4(2) and will make funding recommendations. The committee may utilize an outside technical panel if the committee determines additional expertise is necessary to review and score the application. The application and score will be referred to the director with a recommendation as to whether to fund the project and, if funding is recommended, a recommendation as to the amount of the grant.

c. Director's decision. The director will make the final funding decision on each application, taking into consideration the amount of available funding and the grant committee's recommendation. The director may approve, deny, or defer funding for any application.

d. Notification. Each applicant will be notified in writing of the funding decision within 15 days of the director's decision.

261—221.5(88GA,SF608) Agreement required.

221.5(1) Each applicant that is approved for financial assistance under the program shall enter into an agreement with the authority for the provision of such financial assistance. The agreement will establish the terms on which financial assistance is to be provided and may include any other terms reasonably necessary for the efficient administration of the program.

221.5(2) The authority and the applicant may amend the agreement at any time upon the mutual agreement of both the authority and the applicant.

221.5(3) The agreement may require an applicant that has been approved for financial assistance under the program to submit information reasonably required by the authority to make reports to the authority's board, the governor's office, or the general assembly.

These rules are intended to implement 2019 Iowa Acts, Senate File 608.

[Filed 6/22/20, effective 8/19/20]

[Published 7/15/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/15/20.

ARC 5094C

IOWA FINANCE AUTHORITY[265]

Adopted and Filed

Rule making related to the board of directors

The Iowa Finance Authority hereby amends Chapter 1, "General," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 16.5.

IOWA FINANCE AUTHORITY[265](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, 2019 Iowa Acts, House File 768, sections 2 and 3, and 2019 Iowa Acts, Senate File 608, section 19.

Purpose and Summary

This rule making is intended to ensure that Chapter 1 of the Authority's administrative rules conforms to recent amendments to the Iowa Code. 2019 Iowa Acts, House File 768, amended Iowa Code section 16.2, which describes the membership of the IFA Board of Directors, and now requires the Agricultural Development Board (IAD Board) to appoint a member to the IFA Board of Directors and states that the member shall serve at the pleasure of the IAD Board. House File 768 also increased the number of voting members needed to achieve a quorum from five members to six. Lastly, 2019 Iowa Acts, Senate File 608, section 19, added four ex officio, nonvoting legislative members to the IFA Board of Directors.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on March 11, 2020, as **ARC 4959C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Authority on June 3, 2020.

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 Authority for a waiver of the discretionary provisions, if any, pursuant to 265—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 19, 2020.

The following rule-making action is adopted:

Amend subrules 1.3(2) and 1.3(3) as follows:

1.3(2) Authority board and staff. The powers of the authority are vested in and exercised by a board of nine members, appointed by the governor and subject to confirmation by the senate. The authority also includes one ex officio, voting member of the agricultural development board created in Iowa Code section 16.2C, who must be designated by that board. The ex officio, voting member designated by the agricultural development board shall serve at the pleasure of that board. The authority also includes four

IOWA FINANCE AUTHORITY[265](cont'd)

ex officio, nonvoting legislative members, as set forth in Iowa Code section 16.2(3). A chairperson, vice-chairperson and treasurer are elected annually by the members, generally at the July board meeting each year. Authority staff consists of an executive director, also appointed by the governor and subject to confirmation by the senate, and additional staff as approved by the executive director.

1.3(3) Meetings. Regular meetings of the authority shall be held on the first Wednesday of each month, unless another time of meeting is designated by the authority. Meetings may also be held at the call of the chairperson or whenever two members so request. The purposes of such meetings shall be to review progress in implementation and administration of authority programs, to consider and act upon proposals for authority assistance, to establish policy as needed, and to take other actions as necessary and appropriate. The authority will give advance public notice of the specific date, time and place of each authority meeting, and will post the tentative agenda for each meeting at the main office of the authority, as well as on the authority's website, at least 24 hours before commencement of the meeting. Meetings may occasionally be conducted by electronic means. Any interested party may attend and observe board meetings except for any portion of a meeting that may be closed pursuant to Iowa Code section 21.5. Minutes of meetings are available for viewing at the authority's offices or via the authority's website. ~~Five~~ Six members of the board constitute a quorum, and the affirmative vote of a majority of the ~~appointed~~ voting board members is necessary for any substantive action taken by the authority. The majority shall not include any member who has a conflict of interest, and a statement of a conflict of interest shall be conclusive for this purpose.

[Filed 6/17/20, effective 8/19/20]

[Published 7/15/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/15/20.

ARC 5095C

NATURAL RESOURCES DEPARTMENT[561]

Adopted and Filed

Rule making related to appeals of administrative orders

The Department of Natural Resources (Department) hereby amends Chapter 7, "Rules of Practice in Contested Cases," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 455A.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 455B.110.

Purpose and Summary

These amendments are necessary to align Department rules with 2019 Iowa Acts, Senate File 409, signed by Governor Reynolds on May 9, 2019. Senate File 409, in part, amends the process and timeline for individuals to appeal administrative orders issued by the Department. The legislation clarifies when the appeal period commences and extends the appeal period from 30 days to 60 days. This rule making is intended to implement that legislative change.

Additionally, the amendments address an existing anomaly in Department rules that requires the Environmental Protection Commission and the Natural Resource Commission to consider a proposed decision before the appeal period for that decision has concluded. This anomaly results in the Commissions considering proposed decisions that may still be appealed by the affected parties. This rule making does not alter the rights of any party, including the rights of Commissioners to adopt, reject

NATURAL RESOURCES DEPARTMENT[561](cont'd)

or revise proposed decisions. It simply allows the Commissioners to consider a proposed decision after the conclusion of the appeal period.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 15, 2020, as **ARC 4861C**. A public hearing was held on February 5, 2020, at 1 p.m. in Conference Room 4E, Wallace State Office Building, Des Moines, Iowa. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on June 17, 2020.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. A copy of the fiscal impact statement is available from the Department upon request.

Jobs Impact

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

Waivers

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 561—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 19, 2020.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 7.4(1) as follows:

7.4(1) Time. ~~Any person appealing an action of the department shall file a written notice of appeal within 30 days of receipt of notice of the department's action, unless a shorter time period is specified by a particular statute or rule governing the subject matter or by the agency action in question. The written notice of appeal shall be filed with the director with a copy to the Bureau Chief, Legal Services Bureau, Department of Natural Resources, 502 East 9th Street, Des Moines, Iowa 50319.~~

a. Any order issued by the director of the department shall comply with the requirements established in Iowa Code section 455B.110 and may be appealed. The written notice of appeal of the order must be received by the director within 60 days of proper issuance of the order.

b. Any person appealing any other action by the department that is subject to appeal shall file a written notice of appeal within 60 days of the action, unless a shorter time period is specified by a particular statute or rule governing the subject matter of the action.

c. Unless otherwise stated in the order or notice provided, any written notice of appeal shall be filed with the director of the department, and a copy shall be sent to the legal services bureau chief.

NATURAL RESOURCES DEPARTMENT[561](cont'd)

ITEM 2. Amend subparagraph 7.17(5)“a”(2) as follows:

(2) Agency decision to review. The agency may initiate review of a proposed decision on its own motion ~~at any time within 30 days following the issuance of the proposed decision or at the next regular meeting of the relevant commission, whichever date last occurs~~ after the appeal period in subparagraph 7.17(5)“a”(1) has concluded. The agency shall preside in the case of review of a proposed decision of the administrative law judge or appeal board on motion of the agency.

[Filed 6/19/20, effective 8/19/20]

[Published 7/15/20]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 7/15/20.

ARC 5096C

PHARMACY BOARD[657]

Adopted and Filed

Rule making related to controlled substance registration

The Board of Pharmacy hereby amends Chapter 10, “Controlled Substances,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 124.301.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 124.302 and 124.303.

Purpose and Summary

This amendment clarifies the Board’s expectation that an individual controlled substances act registrant cancels the registrant’s registration when the registration is no longer needed (such as when discontinuing practice in Iowa) and, when having done so, is allowed to later renew when the registrant returns to practice in Iowa or wishes to again engage in activities which require a registration for the standard renewal fee.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 1, 2020, as **ARC 4837C**.

The Board received no public comments except from members of the Administrative Rules Review Committee who expressed concern over the proposed amendments. Under the published Notice, the Board sought an amendment which allowed delinquent registrants to renew their registration if they attested that they had not engaged in registered activities in Iowa during the delinquent period. The ARRC believed that registrants are responsible for maintaining their professional licenses and registrations and expressed concern about the potential reduction in Board revenues as a result. After further review, the Board agreed with the concerns and did not adopt Item 1 of the Notice.

The adopted rule making consists only of the addition of a subrule to clarify that registrants are expected to cancel their registrations when they determine they no longer wish to engage in registered activities in Iowa.

Adoption of Rule Making

This rule making was adopted by the Board on June 23, 2020.

PHARMACY BOARD[657](cont'd)

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 657—Chapter 34.

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 19, 2020.

The following rule-making action is adopted:

Adopt the following **new** subrule 10.9(7):

10.9(7) Cancellation of registration. An individual registrant who no longer needs a registration due to discontinuation of practice in Iowa or discontinuation of possessing, administering, dispensing, or prescribing controlled substances shall contact the board to request cancellation of the registration. An individual registrant may renew the registration upon a return to practice in Iowa or a return to possessing, administering, dispensing, or prescribing controlled substances by submitting an application and a nonrefundable fee for registration renewal of \$90 per biennium and a nonrefundable surcharge of not more than 25 percent of the registration fee for deposit into the program fund.

[Filed 6/23/20, effective 8/19/20]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/15/20.

ARC 5097C

PROFESSIONAL LICENSURE DIVISION[645]**Adopted and Filed****Rule making related to child abuse and dependent adult abuse mandatory reporter training**

The Board of Massage Therapy hereby amends Chapter 131, "Licensure of Massage Therapists," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 232.69, 235B.16 and 272C.2.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 232.69 and 235B.16.

Purpose and Summary

2019 Iowa Acts, House File 731, amended Iowa Code sections 232.69 and 235B.16, which govern mandatory training in child and dependent adult abuse reporting for certain professionals. This rule making amends the Board's requirements for mandatory training in child and dependent adult abuse reporting to reflect the statutory changes and requires that licensees who must report child and dependent adult abuse comply with the training requirements every three years, as provided in the amended Iowa Code sections 232.69 and 235B.16. This rule making also updates subrule 131.8(4) to remove a reference to a rescinded rule provision.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 23, 2019, as **ARC 4726C**. An Amended Notice of Intended Action was published in the Iowa Administrative Bulletin on March 25, 2020, as **ARC 4992C**. No public comments were received. No changes from the Amended Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on June 2, 2020.

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.

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 19, 2020.

The following rule-making action is adopted:

Amend subrule 131.8(4) as follows:

131.8(4) Mandatory reporter training requirements.

a. A licensee who, ~~in the scope of professional practice or in the licensee's employment responsibilities, attends, counsels or treats children in Iowa~~ shall indicate on the renewal application completion of ~~two hours~~ of training in child abuse identification and reporting, as required by Iowa Code

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

~~section 232.69(3) "b," in the previous five three years or condition(s) for waiver of this requirement as identified in paragraph "e." 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 who, in the course of employment, examines, attends, counsels or treats adults in Iowa shall indicate on the renewal application completion of two hours of training in dependent adult abuse identification and reporting, as required by Iowa Code section 235B.16(5) "b," in the previous five three years or condition(s) for waiver of this requirement as identified in paragraph "e." 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. A licensee who, in the scope of professional practice or in the course of employment, examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting for dependent adults and children in the previous five years or condition(s) for waiver of this requirement as identified in paragraph "e."~~

~~Training may be completed through separate courses as identified in paragraphs "a" and "b" or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse. The course course(s) shall be a the curriculum approved provided by the Iowa department of public health abuse education review panel human services.~~

~~d. The licensee shall maintain written documentation for five 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 service 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~~

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

of time in which to fulfill requirements due to a physical or mental disability or illness as identified in ~~645—Chapter 133~~ rule ~~645—4.14(272C)~~.

f. The board may select licensees for audit of compliance with the requirements in paragraphs 131.8(4) “a” to “e.”

[Filed 6/23/20, effective 8/19/20]

[Published 7/15/20]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 7/15/20.

ARC 5098C

REVENUE DEPARTMENT[701]

Adopted and Filed

Rule making related to exemption of sales and use tax for grain bins

The Revenue Department hereby amends Chapter 226, “Agricultural Rules,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 421.14.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 423.3 as amended by 2019 Iowa Acts, House File 779.

Purpose and Summary

During the 2019 Legislative Session, the General Assembly added a new exemption from sales and use tax: “The sales price from the sale of a grain bin, including material or replacement parts used to construct or repair a grain bin.” The exemption defines a “grain bin” as “property that is vented and covered with corrugated metal or similar material, and that is primarily used to hold loose grain for drying or storage.”

Item 2 sets forth a general explanation of what materials will be taxable or exempt under the exemption and then provides a nonexhaustive list of items commonly used to construct a grain bin or sold in conjunction with a grain bin. The rule also explains how entities may claim the exemption. Item 1 amends a current rule to note that cement and concrete are exempt if used in accordance with the new rule in Item 2.

The Department solicited feedback on an initial draft of these proposed amendments with a wide variety of stakeholders, including grain bin manufacturers, retailers, contractors, and others interested in the exemption. The Department made several changes in response to these initial comments in the Notice of Intended Action.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 12, 2020, as **ARC 4915C**. A public hearing was held on March 3, 2020, at 9 a.m. at Room 430, Hoover State Office Building, Fourth Floor, 1305 East Walnut Street, Des Moines, Iowa. The hearing was attended by four people.

The Department also received written comments from three entities. In light of the comments received, the Department made several changes from the Notice, mainly to the subrule describing how taxpayers may claim the exemption. Notably, the Department added seven examples to provide taxpayers guidance on how to handle potential situations.

REVENUE DEPARTMENT[701](cont'd)

Several commenters requested that the Department make an additional change: to treat all sales of certain pieces of equipment as either taxable or exempt without regard to their use. The Department contemplated this change but felt it was not in line with the language of the statute providing the exemption and would have resulted in a deviation from other longstanding rules relating to construction activities. The Department determined it best for taxpayers relying on these rules to be consistent with its existing rules on similar subjects.

Adoption of Rule Making

This rule making was adopted by the Department on June 23, 2020.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa beyond the impact of 2019 Iowa Acts, House File 779. The Legislative Services Agency's fiscal note for House File 779 estimated a reduction in General Fund revenue of \$5.2 million in FY 2020, increasing to \$5.8 million in FY 2024.

Jobs Impact

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

Waivers

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

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 19, 2020.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 226.19(4) as follows:

226.19(4) *Taxable even if used in agricultural production.*

additives	lubricants and fluids
air compressors	lumber*
air conditioners, unless a replacement part for exempt machinery	marking chalk
air tanks	mops
antifreeze	motor oils
axes	nails
barn cleaner, permanent	office supplies
baskets	oxygen
belt dressing	packing room supplies
bins, permanent^	paint and paint sprayers

REVENUE DEPARTMENT[701](cont'd)

brooms	pliers
buckets	posthole diggers, hand tool
building materials* and supplies	poultry brooders, permanent
burlap cleaners	poultry feeders, permanent
cattle feeders, permanent	poultry nests, permanent
cement#	pruning tools
chain saws	pumps for household or lawn use
cleaning brushes	radios, unless a replacement part for exempt machinery
cleansing agents and materials	refrigerators for home use
computers (including laptop), for personal use	repair tools
computer software	road maintenance equipment
construction tools	road scraper
concrete#	roofing
conveyors, permanent	sanders
cow ties, permanent	scrapers
ear tags	screwdrivers
fence, posts, wire, permanent	shingles
field toilets	shovels
fire prevention equipment	silos
freon	snow fence unless portable and used directly in dairy and livestock production
fuel additives	snow plows and snow equipment
fuel tanks and pumps	space heaters, permanent
garden hoses and rakes	specialized flooring, permanent
glass	sprinklers, permanent
grain bins and tanks, permanent*^	stalls, permanent
grease	staples
grease guns	stanchions, permanent
hammers	storage tanks
hog rings	tarps
hydraulic fluids	tiling machinery and equipment
hypodermic syringes, disposable	tractors, garden
lamps	welders
lanterns	wheel barrows
light bulbs (for household use)	wrenches

*The buyer of building materials is responsible for paying sales tax or use tax on those materials, including materials to construct grain bins. The buyer is the person who pays the vendor. Contractors and sponsors that purchase building materials, other than grain bin materials, are responsible for paying sales tax to the vendor or supplier or accruing and remitting use tax on those materials.

^ Does not include grain bins used to hold loose grain for drying or storage.

REVENUE DEPARTMENT[701](cont'd)

Does not include cement or concrete used in pads or foundations under grain bins.

ITEM 2. Adopt the following **new** rule 701—226.20(423):

701—226.20(423) Grain bins. The Iowa Code exempts from sales and use tax the sales price from the sale of a grain bin, including material or replacement parts used to construct or repair a grain bin. “Grain bin” is defined by Iowa Code section 423.3(16A). Grain bins are real property, and grain bin materials are building materials as that term is used in rule 701—219.3(423).

226.20(1) Property considered to be a grain bin or material used to construct a grain bin. In general, materials that are permanently attached to a grain bin and are required to hold loose grain for drying or storage are used to construct a grain bin and thus exempt from sales and use tax. This generally does not include equipment used to move loose grain into or out of a grain bin. The following lists of exempt or taxable property are not exhaustive.

a. Exempt property:

- (1) Grain bins, including hopper bins.
- (2) Corrugated metal or other similar material for the sides or roof of a grain bin.
- (3) Steps, ladders, or staircases permanently attached to a grain bin.
- (4) Structural support towers for a grain bin or for steps, ladders, or staircases providing access to a grain bin.

(5) Catwalks.

(6) Roof vents permanently attached to a grain bin.

(7) Grain bin flooring and floor supports.

(8) Concrete pad or foundation under a grain bin.

(9) Stirring equipment permanently attached in a grain bin.

(10) Fans permanently attached to a grain bin.

(11) Temperature sensors or temperature cables permanently attached in a grain bin.

(12) Spreaders permanently attached in a grain bin.

(13) Sweeps or augers permanently attached in a grain bin.

(14) Bolts and other builders’ hardware permanently attached to a grain bin.

(15) Controls and devices to operate the above-listed property.

(16) Motors for the above-listed property.

(17) Replacement parts for the above-listed property.

b. Taxable property:

(1) Bucket elevators.

(2) Distributors.

(3) Receiving stations, including drag conveyors and dump pits.

(4) Pneumatic or air systems.

(5) Conveyors, including chain conveyors, belt conveyors, and drag conveyors.

(6) Anchors, bin jacks, or other construction equipment used to assemble, construct, repair, or replace a grain bin or part of a grain bin.

(7) Samplers.

(8) Scales or weighers.

(9) Other items that remain tangible personal property and are not permanently attached to a grain bin.

226.20(2) Primarily used to hold loose grain for drying or storage. Property is deemed to be “primarily used to hold loose grain for drying or storage” if it is used more than 50 percent of the time to hold loose grain for drying or storage.

226.20(3) Claiming the exemption.

a. A contractor must provide an exemption certificate to its supplier when purchasing grain bins, grain bin materials, or grain bin replacement parts in order to purchase them free from sales tax. The contractor entering into a construction contract with a sponsor to erect a grain bin or entering into a contract to repair a grain bin must also obtain an exemption certificate from the sponsor of the

REVENUE DEPARTMENT[701](cont'd)

construction/repair contract to avoid accruing and remitting use tax on the grain bins, grain bin materials, and the grain bin replacement parts that were purchased tax-free from the contractor's supplier.

b. The contractor must accrue consumer's use tax on the purchase price of the grain bins, grain bin materials, and grain bin replacement parts unless the contractor obtains an exemption certificate from the sponsor of the construction or repair contract. If the grain bin materials or replacement parts are not used in an exempt manner or if an exemption certificate is not obtained, it is the contractor's responsibility to accrue and remit use tax. The contractor must not charge sales tax to the sponsor of a construction or repair contract because those materials and replacement parts remain building materials used in the performance of a construction contract.

EXAMPLE 1: Company A is in the business of constructing and repairing grain bins. Company A regularly purchases grain bin materials and replacement parts from its supplier. Company A may provide to its supplier an exemption certificate pursuant to Iowa Code section 423.3(16A) so that the materials and replacement parts are purchased tax-free.

A person, also known as a sponsor, enters into a construction contract with Company A to construct a grain bin on the sponsor's property. The sponsor provides an exemption certificate to Company A also pursuant to Iowa Code section 423.3(16A). Company A may now fulfill the construction contract without accruing and remitting use tax on the grain bin materials purchased from its supplier tax-free.

EXAMPLE 2: Assume the same facts as in Example 1, except that Company A does not provide an exemption certificate to its supplier when it purchases grain bin materials and replacement parts. The supplier must charge and collect from Company A sales tax on the full sales price of the grain bin materials and replacement parts.

The sponsor enters into a construction contract with Company A to erect a grain bin. Whether or not the sponsor provides an exemption certificate to Company A pursuant to Iowa Code section 423.3(16A), Company A may now fulfill the construction contract without accruing and remitting use tax on the grain bin materials because Company A paid sales tax on the sale price of the grain bin materials when it purchased them from its supplier.

EXAMPLE 3: Assume the same facts as in Example 2. The sponsor enters into a construction contract with Company A to erect a grain bin and provides an exemption certificate to Company A pursuant to Iowa Code section 423.3(16A). Company A may now file a refund claim with the department requesting that the department refund the sales tax that Company A paid to its supplier when it purchased the grain bin materials used in fulfilling the construction contract with the sponsor. Alternatively, Company A may claim a credit on its sales tax return(s) equal to the amount of sales tax paid to its supplier when it purchased the grain bin materials used in fulfilling the construction contract with the sponsor. The burden is on Company A to prove that the building materials for which the credit or refund is claimed were used in erecting a grain bin.

EXAMPLE 4: Assume the same facts as in Example 1, except that the sponsor does not provide an exemption certificate to Company A. Company A must now accrue and remit use tax on the cost of the materials used in fulfilling this construction contract.

EXAMPLE 5: Assume the same facts as in Example 1, except that the sponsor enters into a construction contract with Company A for the construction of a structure that is not a grain bin. Company A uses the materials that it had purchased tax-free from its supplier to fulfill this contract. Company A must now accrue and remit use tax on the cost of the materials used in fulfilling this construction contract.

EXAMPLE 6: Assume the same facts as in Example 1, except that the sponsor enters into a contract with Company A for the repair of a structure that is not a grain bin. Company A uses the materials that it had purchased tax-free from its supplier to fulfill this contract. When invoicing the sponsor, Company A must separately itemize the materials and the labor charges incurred in fulfilling this repair contract, and the sales price of the materials included on the invoice must include any mark-up. Company A is obligated to charge and collect sales tax on the materials and labor charges listed on the invoice.

EXAMPLE 7: Assume the same facts as in Example 1 except that, in addition to constructing the grain bin, the contractor provides and installs property, such as portable equipment, that remains tangible personal property after installation. As with the grain bin, grain bin materials, and grain bin replacement

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parts, the contractor purchases the portable equipment tax-free, not because it is exempt under this subrule, but because it is a purchase for resale. Unless the portable equipment qualifies for another exemption (such as in rule 701—226.1(423)), even if the contractor obtains an exemption certificate from the sponsor for the grain bin, grain bin materials, and replacement parts, the contractor must charge sales tax to the sponsor because the portable equipment remains tangible personal property and the contractor sells that equipment to the sponsor at retail.

This rule is intended to implement Iowa Code section 423.3.

[Filed 6/23/20, effective 8/19/20]

[Published 7/15/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/15/20.

ARC 5099C

REVENUE DEPARTMENT[701]

Adopted and Filed

Rule making related to sales tax exemption excluding persons who are “primarily engaged” in certain activities

The Revenue Department hereby amends Chapter 230, “Exemptions Primarily Benefiting Manufacturers and Other Persons Engaged in Processing,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 421.14.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 423.3 as amended by 2019 Iowa Acts, House File 779.

Purpose and Summary

The 2019 Iowa Code provides a sales tax exemption for manufacturers. That exemption excludes persons who “are not commonly understood” to be manufacturers, and excludes a person who engages in any one of five listed activities.

2019 Iowa Acts, House File 779, amends that provision to exclude persons who are “primarily engaged” in one of those five activities. This rule making offers guidance to taxpayers as to how a person is “primarily engaged” in one of those activities and provides several examples of how the provision will be applied.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 12, 2020, as **ARC 4916C**. 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 22, 2020.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa beyond that of House File 779, which estimated a reduction in General Fund revenues of \$200,000 in FY 2020 and each year thereafter.

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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 will become effective on August 19, 2020.

The following rule-making action is adopted:

Adopt the following **new** paragraph **230.15(4)“c”**:

c. Primarily engaged in an excluded activity. A person is not considered a manufacturer if the person is “primarily engaged” in any of the activities listed in Iowa Code section 423.3(47) “d”(4)(c). A person is “primarily engaged” in an activity if the person generates more than 50 percent of the person’s gross revenue from its operating business from, or spends more than 50 percent of the person’s time engaging in, any combination of those activities during the 12-month period after the date the person engages in one of the listed activities.

EXAMPLE 1: Company A makes widgets and repairs widgets damaged during use by its customers. Company A generates 70 percent of its revenue making widgets, and its employees spend 80 percent of their time making widgets. The remainder of its revenue and time are attributed to widget repair. Company A is not primarily engaged in “repairing tangible personal property or real property” (Iowa Code section 423.3(47) “d”(4)(c)(ii)) or any of the other enumerated activities from Iowa Code section 423.3(47) “d”(4)(c) because only 30 percent of its revenue and 20 percent of employee time are attributed to widget repair.

EXAMPLE 2A: Company B makes concrete and sells it for resale or directly to individual consumers without entering into a construction contract. Company B generates 100 percent of its revenue from such sales of concrete, and its employees spend 95 percent of their time making concrete during the 12-month period after it claims to be a manufacturer. Company B is not excluded from being considered a manufacturer because Company B’s production and sale of concrete are not part of construction contracting (Iowa Code section 423.3(47) “d”(4)(c)(i)).

EXAMPLE 2B: Company B begins construction contracting to sell its concrete. After 12 months of construction contracting (Iowa Code section 423.3(47) “d”(4)(c)(i)), Company B generates 55 percent of its revenue from construction contracting and 45 percent from resale sales or sales directly to consumers and spends 40 percent of its time performing construction contracts. Company B is no longer considered a manufacturer starting 12 months from the date it began construction contracting because it generates more than 50 percent of its gross revenue from construction contracting.

[Filed 6/22/20, effective 8/19/20]

[Published 7/15/20]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 7/15/20.

**PUBLIC HEARINGS: POSSIBLE USE OF TELEPHONIC OR
ELECTRONIC FORMAT DUE TO COVID-19**

To protect public health and promote efficient government operations during the COVID-19 outbreak, the format of a public hearing on a notice of intended action (NOIA) scheduled and published in the Iowa Administrative Bulletin (IAB) may be changed, without further publication in the IAB, from an in-person hearing at a physical location to a hearing conducted solely via telephonic or electronic means. For information on whether the format of a public hearing as published in the IAB has changed and how to participate telephonically or electronically in such a hearing, see the Internet site of the relevant agency or contact the agency directly using the contact information published in the NOIA. See also section 123 of the Governor's proclamation of disaster emergency issued June 25, 2020: governor.iowa.gov/sites/default/files/documents/Public%20Health%20Proclamation%20-%202020.06.25.pdf.