



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]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)"a"]; and agricultural credit corporation maximum loan rates [535.12].

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

STEPHANIE A. HOFF, Administrative Code Editor

Telephone: (515)281-3355

Fax: (515)281-5534

CITATION of Administrative Rules

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

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

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

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

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

Schedule for Rule Making 2017

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

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
4	Friday, July 28, 2017	August 16, 2017
5	Friday, August 11, 2017	August 30, 2017
6	Wednesday, August 23, 2017	September 13, 2017

PLEASE NOTE:

Rules will not be accepted after **12 o'clock noon** on the filing deadline unless prior approval has been received from the Administrative Rules Coordinator's office.

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

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

The Administrative Rules Review Committee will hold its regular, statutory meeting on Friday, August 4, 2017, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

NOTE: See also Supplemental Agenda to be published in the August 2, 2017, Iowa Administrative Bulletin.

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Human resources procedures, amendments to chs 4, 53, 54, 59 to 64, 70

Filed Emergency After Notice ARC 3215C	7/19/17
Capitol complex operations, amendments to 100.1, 100.2	
Notice ARC 3177C , also Filed Emergency ARC 3179C	7/5/17

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Agricultural seeds—federal regulations adopted, 40.15 Notice **ARC 3152C**..... 7/5/17

ARCHITECTURAL EXAMINING BOARD[193B]

Professional Licensing and Regulation Bureau[193]

COMMERCE DEPARTMENT[181]“umbrella”

Description of organization—update of terminology, 1.1, 1.4 Notice ARC 3169C	7/5/17
Registration—update of terminology, amendments to ch 2 Notice ARC 3170C	7/5/17
Continuing education—update of terminology, amendments to ch 3 Notice ARC 3171C	7/5/17
Rules of conduct—update of terminology, 4.1 Notice ARC 3174C	7/5/17
Exceptions—update of terminology, 5.2 Notice ARC 3172C	7/5/17
Disciplinary action against registrants—update of terminology, amendments to ch 6 Notice ARC 3173C	7/5/17
Disciplinary action for unlicensed practice—update of terminology, 7.3 Notice ARC 3175C	7/5/17

DENTAL BOARD[650]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Licensure and registration—renewal, reinstatement, dental assisting, continuing education,

amend chs 14, 20; adopt ch 25 Notice ARC 3157C	7/5/17
Fees, amendments to ch 15 Notice ARC 3156C	7/5/17

ECONOMIC DEVELOPMENT AUTHORITY[261]

Small business innovation research and technology transfer outreach program, 106.2(2),

106.3, 106.4, 106.5(2), 106.6, 106.7 Filed ARC 3195C	7/5/17
STEM internship program—maximum employer award amount, 110.4(1) Notice ARC 3155C	7/5/17

EDUCATIONAL EXAMINERS BOARD[282]

EDUCATION DEPARTMENT[281]“umbrella”

Executive director; complaints; fees; licenses and endorsements; renewals;

authorizations—rolling review of rules, 1.2, 11.4, 12.3, 12.6, 12.8, 13.17, 18.4, 18.6, 20.8, 22.3, 22.5 Filed ARC 3196C	7/5/17
PK-3, elementary education, multioccupation, career and technical education (CTE)	
endorsements; paraeducator area of concentration—autism spectrum disorders, amendments to chs 13, 24 Filed ARC 3197C	7/5/17

EDUCATION DEPARTMENT[281]

Open enrollment—method of finance, special education students, 17.10, 17.11 Filed ARC 3181C	7/5/17
Intensive summer literacy program—voluntary implementation, 61.3 Notice ARC 3148C	7/5/17
State standards for progression in reading, amendments to ch 62 Notice ARC 3149C	7/5/17
Administrative advancement and recruitment program, rescind ch 94 Filed ARC 3180C	7/5/17

ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

Bacteria water quality criteria; Iowa wasteload allocation (WLA) procedure, 61.2(4), 61.3,

62.8 Notice ARC 3202C	7/19/17
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HUMAN SERVICES DEPARTMENT[441]

Family planning program, amend ch 7; adopt ch 87

Notice ARC 3198C , also Filed Emergency ARC 3199C	7/19/17
Changes in statewide average private-pay cost of nursing facility services and of charges for institutional care, 75.23(3), 75.24(3)“b” Filed Emergency After Notice ARC 3183C	7/5/17
Increase in maximum Medicaid rate for intermediate care facilities for individuals with an intellectual disability, 75.24(3)“b” Filed Emergency After Notice ARC 3182C	7/5/17
Medicaid waiver services—assessment tool, case management, definition of “brain injury,” amendments to chs 77, 78, 83 Filed ARC 3184C	7/5/17

Medicaid—anesthesia conversion factor, 79.1(2), 79.1(7)“d” Notice ARC 3164C , also Filed Emergency ARC 3158C	7/5/17
Medicaid—diagnostic related group (DRG) costs, 79.1(5)“f”(3) Notice ARC 3166C , also Filed Emergency ARC 3161C	7/5/17
Medicaid—site of service differential for physician services in facilities, 79.1(7)“b” Notice ARC 3165C , also Filed Emergency ARC 3162C	7/5/17
Medicaid—primary care physician rates, 79.1(7)“c” Notice ARC 3167C , also Filed Emergency ARC 3160C	7/5/17
Medicaid—reimbursement for Medicare Part A and Part B crossover claims, 79.1(22), 80.2(2)“h” Notice ARC 3163C , also Filed Emergency ARC 3159C	7/5/17
Foster care—alignment with child care regulations, contractor preservice training, general update of terminology, amendments to chs 108, 112 to 114, 116, 117, 156, 202 Filed ARC 3185C	7/5/17
Interstate compact on the placement of children—use of national electronic interstate compact enterprise (NEICE) system, amendments to ch 142 Filed ARC 3186C	7/5/17

INSPECTIONS AND APPEALS DEPARTMENT[481]

Award of attorney fees and court costs, 11.3(1), 11.9 to 11.11, 11.14 Filed ARC 3217C	7/19/17
Amusement devices, amendments to chs 104, 105 Notice of Termination ARC 3191C	7/5/17
Food and consumer safety, amendments to ch 30 Filed ARC 3187C	7/5/17
Food establishment and food processing plant inspections, amendments to ch 31 Filed ARC 3188C	7/5/17
Home bakeries, amendments to ch 34 Filed ARC 3189C	7/5/17
Social gambling, rescind ch 102 Filed ARC 3190C	7/5/17
Game nights, rescind ch 107 Filed ARC 3192C	7/5/17

INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]“umbrella”

Regulation of securities offerings and those who engage in the securities business, 50.66, 50.91, 50.92 Notice ARC 3200C	7/19/17
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PUBLIC HEALTH DEPARTMENT[641]

Prospective private sector employee drug testing—addition of “hair” to definition of “sample”; update of references to forensic drug testing, amendments to ch 12 Notice ARC 3209C	7/19/17
Notification requirements for mammogram reports, 41.6(4) Notice ARC 3210C	7/19/17
Vital records—reporting of terminations of pregnancy, amendments to ch 100 Notice ARC 3211C	7/19/17
Biological agent risk assessment, rescind ch 112 Notice ARC 3205C	7/19/17
State medical examiner—autopsy fee, 126.3(1) Notice ARC 3212C	7/19/17
Automated external defibrillator program, amendments to ch 143 Notice ARC 3204C	7/19/17
Medical cannabidiol Act registration card program, 154.1 to 154.14 Notice ARC 3151C , also Filed Emergency ARC 3150C	7/5/17
Governmental public health advisory council—update of definition for “local board of health,” 186.2 Notice ARC 3213C	7/19/17
Organized delivery systems, rescind ch 201 Notice ARC 3214C	7/19/17

PUBLIC SAFETY DEPARTMENT[661]

Standards for electrical work—2017 National Electrical Code (NEC), 100.1 Notice ARC 3153C	7/5/17
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REAL ESTATE COMMISSION[193E]

Professional Licensing and Regulation Bureau[193]

COMMERCE DEPARTMENT[181]“umbrella”

Branch offices, licensure, prelicense and continuing education, courses and attendance certificates, amendments to chs 7, 16, 17 Notice ARC 3154C	7/5/17
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REVENUE DEPARTMENT[701]

Certain military and civilian personnel—extension of Iowa income tax filing deadline, 39.12 Filed ARC 3218C	7/19/17
Board of review—occupation of members, 71.20(1)“a” Notice ARC 3203C	7/19/17
Assessor or deputy assessor examination—removal of right to review, 72.2(6) Notice ARC 3206C	7/19/17
Wind energy conversion property—sunset date, 80.13 Notice ARC 3208C	7/19/17
Commercial and industrial property tax replacement—county replacement claims report, 80.49(2)“b” Notice ARC 3207C	7/19/17

SOIL CONSERVATION AND WATER QUALITY DIVISION[27]

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]“umbrella”

Mine site registration renewal and fee, 60.31 Filed Emergency After Notice ARC 3216C	7/19/17
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TRANSPORTATION DEPARTMENT[761]

Highway project planning, rescind ch 110 Notice **ARC 3201C** 7/19/17
 Special permits for operation and movement of vehicles and loads of excess size and weight;
 compacted rubbish vehicle permits, amend ch 511; rescind ch 513 Filed **ARC 3193C** 7/5/17
 Public transit system funding, amendments to chs 920, 921, 924 Filed **ARC 3194C**..... 7/5/17

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]

Update of department contact information, amendments to chs 2 to 4, 6, 11, 14 to 16
Notice **ARC 3147C** 7/5/17

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Procedures for department interaction with employers and claimants; updates related to
 technology, amendments to chs 22 to 25 Notice **ARC 3178C** 7/5/17

ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

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

Senator Mark Chelgren
 819 Hutchinson
 Ottumwa, Iowa 52501

Senator Mark Costello
 37265 Rains Avenue
 Imogene, Iowa 51645

Senator Wally Horn
 101 Stoney Point Road, SW
 Cedar Rapids, Iowa 52404

Senator Pam Jochum
 2368 Jackson Street
 Dubuque, Iowa 52001

Senator Jack Whitver
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 Ankeny, Iowa 50021

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 Telephone (515)281-6048
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 P.O. Box A
 Mt. Auburn, Iowa 52313

Representative Art Staed
 2141 Coldstream Avenue NE
 Cedar Rapids, Iowa 52402

Representative Guy Vander Linden
 1610 Carbonado Road
 Oskaloosa, Iowa 52577

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

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Capitol complex operations, amendments to 100.1, 100.2 IAB 7/5/17 ARC 3177C	Conference Rooms 5 and 6, A Level Hoover State Office Bldg. Des Moines, Iowa	July 25, 2017 8:30 to 9:30 a.m.
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ARCHITECTURAL EXAMINING BOARD[193B]

Description of organization—update of terminology, 1.1, 1.4 IAB 7/5/17 ARC 3169C	Board Office, Suite 350 200 E. Grand Ave. Des Moines, Iowa	July 25, 2017 9 a.m.
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Registration—update of terminology, amendments to ch 2 IAB 7/5/17 ARC 3170C	Board Office, Suite 350 200 E. Grand Ave. Des Moines, Iowa	July 25, 2017 9 a.m.
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Continuing education—update of terminology, amendments to ch 3 IAB 7/5/17 ARC 3171C	Board Office, Suite 350 200 E. Grand Ave. Des Moines, Iowa	July 25, 2017 9 a.m.
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Rules of conduct—update of terminology, 4.1 IAB 7/5/17 ARC 3174C	Board Office, Suite 350 200 E. Grand Ave. Des Moines, Iowa	July 25, 2017 9 a.m.
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Exceptions—update of terminology, 5.2 IAB 7/5/17 ARC 3172C	Board Office, Suite 350 200 E. Grand Ave. Des Moines, Iowa	July 25, 2017 9 a.m.
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Disciplinary action against registrants—update of terminology, amendments to ch 6 IAB 7/5/17 ARC 3173C	Board Office, Suite 350 200 E. Grand Ave. Des Moines, Iowa	July 25, 2017 9 a.m.
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Disciplinary action for unlicensed practice—update of terminology, 7.3 IAB 7/5/17 ARC 3175C	Board Office, Suite 350 200 E. Grand Ave. Des Moines, Iowa	July 25, 2017 9 a.m.
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DENTAL BOARD[650]

Licensure and registration—renewal, reinstatement, dental assisting, continuing education, amend chs 14, 20; adopt ch 25 IAB 7/5/17 ARC 3157C	Board Office, Suite D 400 S.W. Eighth St. Des Moines, Iowa	July 27, 2017 2 p.m.
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Fees, amendments to ch 15 IAB 7/5/17 ARC 3156C	Board Office, Suite D 400 S.W. Eighth St. Des Moines, Iowa	July 27, 2017 2 p.m.
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EDUCATION DEPARTMENT[281]

Intensive summer literacy program—voluntary implementation, 61.3 IAB 7/5/17 ARC 3148C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	July 25, 2017 11 a.m. to 12 noon
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State standards for progression in reading, amendments to ch 62 IAB 7/5/17 ARC 3149C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	July 25, 2017 10 to 11 a.m.
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ENVIRONMENTAL PROTECTION COMMISSION[567]

Bacteria water quality criteria; Iowa wasteload allocation (WLA) procedure, 61.2(4), 61.3, 62.8 IAB 7/19/17 ARC 3202C	State Bank Room Washington Public Library 115 W. Washington St. Washington, Iowa	September 5, 2017 4 p.m.
	Meeting Room B Urbandale Public Library 3520 86th St. Urbandale, Iowa	September 6, 2017 4 p.m.
	Harlan Community Library 718 Court St. Harlan, Iowa	September 7, 2017 4 p.m.

INSURANCE DIVISION[191]

Regulation of securities offerings and those who engage in the securities business, 50.66, 50.91, 50.92 IAB 7/19/17 ARC 3200C	Division Offices, Fourth Floor Two Ruan Center 601 Locust St. Des Moines, Iowa	August 8, 2017 2 p.m.
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PUBLIC HEALTH DEPARTMENT[641]

Medical cannabidiol Act registration card program, 154.1 to 154.14 IAB 7/5/17 ARC 3151C (See also ARC 3150C)	Rooms 517 and 518 Lucas State Office Bldg. Des Moines, Iowa <i>To participate by conference call:</i> Dial 1-866-685-1580 Conference Code: 515-281-5606	August 9, 2017 1 to 3 p.m.
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PUBLIC SAFETY DEPARTMENT[661]

Standards for electrical work—2017 National Electrical Code (NEC), 100.1 IAB 7/5/17 ARC 3153C	Public Conference Room 125 Oran Pape State Office Bldg. Des Moines, Iowa	August 17, 2017 10 a.m.
Consumer fireworks sales licensing and safety standards, ch 265 IAB 6/21/17 ARC 3123C	Public Conference Room 125 Oran Pape State Office Bldg. Des Moines, Iowa	September 8, 2017 10 a.m.

REAL ESTATE COMMISSION[193E]

Branch offices, licensure, prelicense and continuing education, courses and attendance certificates, amendments to chs 7, 16, 17 IAB 7/5/17 ARC 3154C	Commission Office, Suite 350 200 E. Grand Ave. Des Moines, Iowa	July 25, 2017 12 noon
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TRANSPORTATION DEPARTMENT[761]

Highway project planning, rescind ch 110 IAB 7/19/17 ARC 3201C	North Conference Room, First Floor Administration Bldg. 800 Lincoln Way Ames, Iowa	August 10, 2017 10 a.m. (If requested)
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UTILITIES DIVISION[199]

Renewable energy percentage
verification, ch 30
IAB 6/21/17 **ARC 3118C**

Board Hearing Room
1375 E. Court Ave.
Des Moines, Iowa

July 26, 2017
9 a.m.

Equipment distribution program,
37.1 to 37.6
IAB 6/21/17 **ARC 3119C**

Board Hearing Room
1375 E. Court Ave.
Des Moines, Iowa

August 16, 2017
10 a.m.

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 3202C

ENVIRONMENTAL PROTECTION COMMISSION[567]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 455B.105(11)“a,” 455B.173(2) and 455B.173(3), the Environmental Protection Commission (Commission) hereby gives Notice of Intended Action to amend Chapter 61, “Water Quality Standards,” and Chapter 62, “Effluent and Pretreatment Standards: Other Effluent Limitations or Prohibitions,” Iowa Administrative Code.

The purposes of the proposed amendments are to:

1. Update the bacteria water quality criteria table in 61.3(3)“a”(1). The amendment will eliminate the single sample maximum values of 235 organisms per 100 milliliters of water for Recreational Use Classes A1 and A3 and 2,880 organisms per 100 milliliters of water for Recreational Use Class A2. The Commission has determined that the single sample maximum value is overly stringent and is not an appropriate measure for water quality assessment and permitting purposes. The geometric mean *E. coli* criterion is a more appropriate measure and will be retained.

2. Update the name of the document referenced in the rules from “Supporting Document for Iowa Water Quality Management Plans, Chapter IV, July 1976, as revised on November 11, 2009” to “Iowa Wasteload Allocation (WLA) Procedure” to more clearly reflect the contents of the document. A wasteload allocation (WLA) is the portion of a water body’s assimilative capacity that is allocated to an existing or future point source discharge. This document establishes the technical methodologies the Department of Natural Resources (Department) uses to develop WLAs and water quality-based effluent limits for point source dischargers. The revision of the document will make it more understandable and better describe the procedures used in WLA calculations. The revision will also provide greater flexibility to facilities seeking alternative permitting options.

The major elements of the Iowa WLA Procedure document revision are as follows:

a. Update the Stream Low-Flow Values for United States Geological Survey (USGS) gaged sites and ungaged sites based on the USGS low-flow study report “Methods for Estimating Selected Low-Flow Frequency Statistics and Harmonic Mean Flows for Streams in Iowa,” by David A. Eash and Kimberlee K. Barnes, published in 2012 and revised in 2013. This change will incorporate the most up-to-date stream critical low flows published by USGS to better reflect actual stream low flows;

b. Incorporate statewide default background chemical concentrations using the most up-to-date monitoring data available;

c. Incorporate statewide default effluent chemical concentrations for different types of wastewater treatment plants using the most up-to-date effluent monitoring data available;

d. Replace the total residual chlorine default decay value in the mixing zone with site-specific decay measurements;

e. Incorporate the current implementation procedures for the chloride and sulfate criteria that were adopted in 2009;

f. Revise the *E. coli* WLA procedures for both continuous and noncontinuous discharges to reflect the *E. coli* criteria changes in 61.3(3)“a”(1), as described above;

g. Revise the *E. coli* decay rate coefficient to be consistent with other Department programs;

h. Revise the temperature criteria implementation procedure to incorporate all elements of the temperature criteria in Chapter 61 for different designated uses. The proposed revision to the temperature criteria implementation procedure provides flexibility for facilities seeking alternative permitting options;

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- i. Modify the WLA procedure for pH so that pH criteria must be met at the boundary of the mixing zone instead of the boundary of the zone of initial dilution. This modification will result in increased dilution for pH WLA calculations;
- j. Clarify that the fathead minnow is to be used as the most sensitive representative species for establishing acute toxicity effluent limits for general use water bodies;
- k. Clarify the current mixing zone procedures and the requirements for mixing zone and diffuser studies;
- l. Incorporate a Site-Specific Data Collection procedure in order to standardize the site-specific data collection process. The proposed revision will have fewer sampling requirements and will result in cost savings for point source discharge facilities seeking site-specific permit limits;
- m. Revise the Water Quality Modeling section to replace previous models with commonly used and modernized QUALIK and modified Streeter-Phelps models. The revisions will also update decay rates and reaeration rates to reflect the latest scientific data;
- n. Add a reference to the antidegradation implementation procedure document;
- o. Add a new section on Alternative Site-Specific Methodology for Water Quality Based Limits that provides point source discharge facilities with the flexibility to develop site-specific NPDES permit limits.

Other minor revisions to the document include improvements in the estimation of ammonia nitrogen decay calculations in discharge pipes and general use segments, clarification of the procedure for determining discharge flows used in WLAs, and clarification of various sections to make the document more understandable. The proposed "Iowa Wasteload Allocation (WLA) Procedure" document is available at www.iowadnr.gov/Environmental-Protection/Water-Quality/Wasteload-Allocations.

The proposed amendments also update references to the Department's Web site.

Any person may submit written suggestions or comments on the proposed amendments through September 8, 2017. Such written material should be submitted to Ms. Dou, Water Quality Monitoring and Assessment Section, Iowa Department of Natural Resources, 502 East 9th Street, Des Moines, Iowa 50319-0034; fax (515)725-8202; or e-mailed to Connie.Dou@dnr.iowa.gov. Persons who have questions may contact Connie Dou by e-mail or by telephone at (515)725-8400.

Persons are invited to present oral or written comments at a series of public hearings, which will be held throughout the state as follows:

Date	Time	Location
September 5, 2017	4 p.m.	State Bank Room Washington Public Library 115 West Washington St. Washington, Iowa
September 6, 2017	4 p.m.	Meeting Room B Urbandale Public Library 3520 86th St. Urbandale, Iowa
September 7, 2017	4 p.m.	Harlan Community Library 718 Court St. Harlan, Iowa

Persons attending a hearing will be asked to give their names and addresses for the record and to confine their remarks to the content of the proposed amendments.

Any person who intends to attend a public hearing and has special requirements, such as those related to mobility or hearing impairments, should contact the Department to advise of any specific needs.

After analysis and review of this rule making, these amendments are expected to have a positive impact on jobs. The amendments are projected to result in a total cost savings for cities, industries, and semipublic entities ranging between \$26 million and \$58 million. This total savings is expected to be

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achieved by approximately 94 facilities across the state. These cost savings will likely lead to further investment in production and job growth.

The proposed amendments are intended to implement Iowa Code sections 455B.105(11)“a,” 455B.173(2) and 455B.173(3).

The following amendments are proposed.

ITEM 1. Amend paragraph **61.2(4)“a”** as follows:

a. Due to extreme variations in wastewater and receiving water characteristics, spatial dimensions of mixing zones shall be defined on a site-specific basis. These rules are not intended to define each individual mixing zone, but will set maximum limits which will satisfy most biological, chemical, physical and radiological considerations in defining a particular mixing zone. Additional details are noted in the ~~“Supporting Document for Iowa Water Quality Management Plans,” Chapter IV, July 1976, as revised on November 11, 2009~~ “Iowa Wasteload Allocation (WLA) Procedure,” [effective date of this amendment], for considering unusual site-specific features such as side channels and sand bars which may influence a mixing zone. Applications for operation permits under 567—subrule 64.3(1) may be required to provide specific information related to the mixing zone characteristics below their outfall so that mixing zone boundaries can be determined.

ITEM 2. Amend paragraph **61.2(4)“b,”** introductory paragraph, as follows:

b. For parameters included in Table 1 only (which does not include ammonia nitrogen), the dimensions of the mixing zone and the zone of initial dilution will be calculated using a mathematical model presented in the ~~“Supporting Document for Iowa Water Quality Management Plans,” Chapter IV, July 1976, as revised on November 11, 2009~~ “Iowa Wasteload Allocation (WLA) Procedure,” [effective date of this amendment], or from instream studies of the mixing characteristics during low flow. In addition, the most restrictive of the following factors will be met:

ITEM 3. Amend subparagraph **61.2(4)“d”(4)** as follows:

(4) A discharger to interior streams and rivers, the Big Sioux and Des Moines Rivers, and the Mississippi or Missouri Rivers may provide to the department, for consideration, instream data which technically supports the allowance of an increased percentage of the stream flow contained in the mixing zone due to rapid and complete mixing. Any allowed increase in mixing zone flow would still be governed by the mixing zone length restrictions. The submission of data should follow the guidance provided in the ~~“Supporting Document for Iowa Water Quality Management Plans,” Chapter IV, July 1976, as revised on November 11, 2009~~ “Iowa Wasteload Allocation (WLA) Procedure,” [effective date of this amendment].

ITEM 4. Amend paragraph **61.2(4)“e,”** introductory paragraph, as follows:

e. For ammonia criteria noted in Table 3, the dimensions of the mixing zone and the zone of initial dilution will be calculated using a mathematical model presented in the ~~“Supporting Document for Iowa Water Quality Management Plans,” Chapter IV, July 1976, as revised on November 11, 2009~~ “Iowa Wasteload Allocation (WLA) Procedure,” [effective date of this amendment], or from instream studies of the mixing characteristics during low flow. In addition, the most restrictive of the following factors will be met:

ITEM 5. Amend paragraph **61.2(4)“f”** as follows:

f. For ammonia criteria noted in Table 3, the stream flow used in determining wasteload allocations to ensure compliance with the chronic criteria of Table 3 will be that value contained at the boundary of the allowed mixing zone. This stream flow may not exceed the percentages of the design low stream flow noted in 61.2(4)“e”(1) as measured at the point of discharge.

The pH and temperature values at the boundary of the mixing zone used to select the chronic ammonia criteria of Table 3 will be from one of the following sources. The source of the pH and temperature data will follow the sequence listed below, if applicable data exists from the source.

(1) Specific pH and temperature data provided by the applicant gathered at their mixing zone boundary. Procedures for obtaining this data are noted in the ~~“Supporting Document for Iowa Water~~

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Quality Management Plans,” Chapter IV, July 1976, as revised on November 11, 2009 “Iowa Wasteload Allocation (WLA) Procedure,” [effective date of this amendment].

(2) Regional background pH and temperature data provided by the applicant gathered along the receiving stream and representative of the background conditions at the outfall. Procedures for obtaining this data are noted in the “Supporting Document for Iowa Water Quality Management Plans,” Chapter IV, July 1976, as revised on November 11, 2009 “Iowa Wasteload Allocation (WLA) Procedure,” [effective date of this amendment].

(3) The statewide average median background values presented in Table IV-2 of the “Supporting Document for Iowa Water Quality Management Plans,” Chapter IV, July 1976, as revised on November 11, 2009 as determined by the department.

The stream flow in the zone of initial dilution used in determining effluent limits to ensure compliance with the acute criteria of Table 3 may not exceed 5 percent of the calculated flow associated with the mixing zone for facilities with a dilution ratio of less than or equal to 2:1, and not exceed 10 percent of the calculated flow associated with the mixing zone for facilities with a dilution ratio of greater than 2:1. The pH and temperature values at the boundary of the zone of initial dilution used to select the acute ammonia criteria of Table 3 will be from one of the following sources and follow the sequence listed below, if applicable data exists from the source.

1. Specific effluent pH and temperature data if the dilution ratio is less than or equal to 2:1.
2. If the dilution ratio is greater than 2:1, the logarithmic average pH of the effluent and the regional or statewide pH provided in 61.2(4)“f” will be used. In addition, the flow proportioned average temperature of the effluent and the regional or statewide temperature provided in 61.2(4)“f” will be used. The procedures for calculating these data are noted in the “Supporting Document for Iowa Water Quality Management Plans,” Chapter IV, July 1976, as revised on November 11, 2009 “Iowa Wasteload Allocation (WLA) Procedure,” [effective date of this amendment].

ITEM 6. Amend subparagraph **61.2(4)“g”(4)** as follows:

(4) A discharger to interior streams and rivers, the Big Sioux and Des Moines Rivers, and the Mississippi and Missouri Rivers may provide to the department, for consideration, instream data which technically supports the allowance of an increased percentage of the stream flow contained in the mixing zone due to rapid and complete mixing. Any allowed increase in mixing zone flow would still be governed by the mixing zone length restrictions. The submission of data should follow the guidance provided in the “Supporting Document for Iowa Water Quality Management Plans,” Chapter IV, July 1976, as revised on November 11, 2009 “Iowa Wasteload Allocation (WLA) Procedure,” [effective date of this amendment].

ITEM 7. Amend paragraph **61.3(2)“g”** as follows:

g. Cations and anions guideline values to protect livestock watering may be found in the “Supporting Document for Iowa Water Quality Management Plans,” Chapter IV, July 1976, as revised on November 11, 2009 “Iowa Wasteload Allocation (WLA) Procedure,” [effective date of this amendment].

ITEM 8. Amend paragraph **61.3(2)“h”** as follows:

h. The Escherichia coli (E. coli) content of water which enters a sinkhole or losing stream segment, regardless of the water body’s designated use, shall not exceed a Geometric Mean value of 126 organisms/100 ml ~~or a sample maximum value of 235 organisms/100 ml.~~ No new wastewater discharges will be allowed on watercourses which directly or indirectly enter sinkholes or losing stream segments.

ITEM 9. Amend subparagraph **61.3(3)“a”(1)** as follows:

(1) The Escherichia coli (E. coli) content shall not exceed the levels noted in the Bacteria Criteria Table when the Class “A1,” “A2,” or “A3” uses can reasonably be expected to occur.

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Bacteria Criteria Table (organisms/100 ml of water)

Use or Category	Geometric Mean	Sample Maximum
Class A1		
3/15 – 11/15	126	235
11/16 – 3/14	Does not apply	Does not apply
Class A2 (Only)		
3/15 – 11/15	630	2880
11/16 – 3/14	Does not apply	Does not apply
[Class A2 and B(CW)] or OIW or ONRW		
Year-Round	630	2880
Class A3		
3/15 – 11/15	126	235
11/16 – 3/14	Does not apply	Does not apply
Class A1 - Primary Contact Recreational Use Class A2 - Secondary Contact Recreational Use Class A3 - Children's Recreational Use		

When a water body is designated for more than one of the recreational uses, the most stringent criteria for the appropriate season shall apply.

ITEM 10. Amend subrule 61.3(5) as follows:

61.3(5) Surface water classification. The department hereby incorporates by reference “Surface Water Classification,” effective June 17, 2015. This document may be obtained on the department’s Web site at <http://www.iowadnr.gov/InsideDNR/RegulatoryWater/WaterQualityStandards/Rules.aspx> <http://www.iowadnr.gov>.

ITEM 11. Amend subrule 61.3(6) as follows:

61.3(6) Cold water use designation assessment protocol. The department hereby incorporates by reference “Cold Water Use Designation Assessment Protocol,” effective December 15, 2004. This document may be obtained on the department’s Web site at <http://www.iowadnr.com/water/standards/index.html> <http://www.iowadnr.gov>.

ITEM 12. Amend subrule 61.3(7) as follows:

61.3(7) Warm water stream use assessment and attainability analysis protocol. The department hereby incorporates by reference “Warm Water Stream Use Assessment and Attainability Analysis Protocol,” effective March 22, 2006. This document may be obtained on the department’s Web site at <http://www.iowadnr.com/water/standards/index.html> <http://www.iowadnr.gov>.

ITEM 13. Adopt the following **new** subrule 61.3(9):

61.3(9) Iowa wasteload allocation (WLA) procedure. The department hereby incorporates by reference “Iowa Wasteload Allocation (WLA) Procedure,” [effective date of this amendment]. This document may be obtained on the department’s Web site at <http://www.iowadnr.gov>.

ITEM 14. Amend subrule 62.8(2) as follows:

62.8(2) Effluent limitations necessary to meet water quality standards. No effluent, alone or in combination with the effluent of other sources, shall cause a violation of any applicable water quality standard. When it is found that a discharge that would comply with applicable effluent standards in 567—62.3(455B), 567—62.4(455B) or 567—62.5(455B) or effluent limitations in 567—62.6(455B) would cause a violation of water quality standards, the discharge will be required to meet the water quality-based effluent limits (WQBELs) necessary to achieve the applicable water quality standards as established in 567—Chapter 61. Any such effluent limit shall be derived from the calculated waste load allocation, as described in “Supporting Document for Iowa Water Quality Management Plans,” Chapter

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~~IV, July 1976, as revised on November 11, 2009~~ “Iowa Wasteload Allocation (WLA) Procedure,” [effective date of this amendment], or the waste load allocation as required by a total maximum daily load, whichever is more stringent. The translation of waste load allocations to WQBELs shall use Iowa permit derivation methods, as described in the ~~“Supporting Document for Iowa Water Quality Management Plans,” Chapter IV, July 1976, as revised on November 11, 2009,~~ except that the daily sample maximum criteria for *E. coli* set forth in Part E of the ~~“Supporting Document for Iowa Water Quality Management Plans”~~ shall not be used as an end-of-pipe permit limitation ~~“Iowa Wasteload Allocation (WLA) Procedure,” [effective date of this amendment].~~

ARC 3198C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 234.6 and 2017 Iowa Acts, House File 653, sections 90 to 92, the Department of Human Services hereby gives Notice of Intended Action to amend Chapter 7, “Appeals and Hearings,” and to rescind Chapter 87, “State-Funded Family Planning Program,” and adopt a new Chapter 87, “Family Planning Program,” Iowa Administrative Code.

These amendments implement a new state Family Planning Program (FPP) in accordance with legislative guidance pursuant to 2017 Iowa Acts, House File 653, sections 90 to 92.

As a result of these amendments, providers of family planning services will change as entities that provide abortions can no longer participate as an FPP provider. A provider unable to participate as an FPP provider will also be unable to participate as a point-of-service agency for eligibility determinations for FPP.

Any interested person may make written comments on the proposed amendments on or before August 8, 2017. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, Fifth Floor, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to policyanalysis@dhs.state.ia.us.

These amendments do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 3199C**. The purpose of this Notice of Intended Action is to solicit public comment on that submission, the subject matter of which is incorporated by reference.

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

These amendments are intended to implement Iowa Code section 249A.4 and 2017 Iowa Acts, House File 653, sections 90 to 92.

ARC 3200C

INSURANCE DIVISION[191]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 502.605(1), the Insurance Division (the Division) hereby gives Notice of Intended Action to amend Chapter 50, “Regulation of Securities Offerings and Those Who Engage in the Securities Business,” Iowa Administrative Code.

These amendments are proposed to implement Iowa Code chapter 502, the Iowa Uniform Securities Act, which regulates the sale of securities in Iowa.

The proposed amendments do the following:

- Update the current rules to bring them into accord with recent amendments to changes in Statements of Policy adopted by the North American Securities Administrators Association, Inc. (NASAA), as indicated in the new or amended rules.
- Add notice filing requirements for federal crowdfunding offerings.
- Update notice filing requirements for issuers planning to offer and sell securities in Iowa in an offering exempt under Tier 2 of 17 CFR Section 230.251 et seq. (“federal Regulation A”) and Sections 18(b)(3) and 18(b)(4) of the Securities Act of 1933.

The Division intends that these amendments shall go into effect October 18, 2017.

Any interested person may make written suggestions or comments on these proposed amendments on or before August 8, 2017. Such written materials should be directed to Craig Goetsch, Iowa Insurance Division, Securities and Regulated Industries Bureau, Two Ruan Center, 601 Locust Street, Fourth Floor, Des Moines, Iowa 50309-3738; fax (515)281-8813; e-mail craig.goetsch@iid.iowa.gov.

Also, there will be a public hearing on August 8, 2017, at 2 p.m. at the offices of the Iowa Insurance Division, Two Ruan Center, 601 Locust Street, Fourth Floor, Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

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

The Insurance Division’s general waiver provisions of 191—Chapter 4 apply to these rules.

These rules will impose no fiscal impact on the State.

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

These amendments are intended to implement Iowa Code chapter 502.

The following amendments are proposed.

ITEM 1. Amend subrule 50.66(14) as follows:

50.66(14) Preferred stock. A public offering of preferred stock may be allowed by the administrator if the administrator determines that the offering substantially complies,~~—as determined by the administrator,~~ with the NASAA Statement of Policy Regarding Preferred Stock as adopted by the NASAA membership on April 27, 1997, and as amended March 31, 2008, ~~and published in CCH NASAA Reports at paragraph 3004 and September 11, 2016~~ (<http://nasaa.cdn.s3.amazonaws.com/wp-content/uploads/2011/07/SOP-Regarding-Preferred-Stock-Amended0916.pdf>).

ITEM 2. Amend subrule 50.66(18) as follows:

50.66(18) Use of proceeds. The registration of a security may be disallowed if ~~it~~ the administrator determines that the registration does not substantially comply,~~—as determined by the administrator,~~ with the NASAA Statement of Policy Regarding Specificity in Use of Proceeds as ~~adopted~~ amended by the NASAA membership on April 27, 1997, ~~and as amended~~ September 28, 1999, ~~and~~ March

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31, 2008, and published in CCH NASAA Reports at paragraph 3831 and September 11, 2016 (http://nasaa.cdn.s3.amazonaws.com/wp-content/uploads/2011/07/SPECIFICITY_IN_USE_OF_PROCEEDS-Amended0916.pdf).

ITEM 3. Adopt the following **new** subrule 50.66(20):

50.66(20) Promoters' equity investment. The registration of a security may be disallowed by the administrator if the administrator determines that the registration does not substantially comply with the NASAA Statement of Policy Regarding Promoters' Equity Investment as amended by the NASAA membership on April 27, 1997, March 31, 2008, and September 11, 2016 (http://nasaa.cdn.s3.amazonaws.com/wp-content/uploads/2011/07/PROMOTERS_EQUITY_INVESTMENT-revised0916.pdf).

ITEM 4. Adopt the following **new** subrule 50.66(21):

50.66(21) Unequal voting rights. The registration of a security may be disallowed by the administrator if the administrator determines that the registration does not substantially comply with the NASAA Statement of Policy Regarding Unequal Voting Rights as adopted by the NASAA membership on October 24, 1991, and as amended March 31, 2008, and September 11, 2016 (http://nasaa.cdn.s3.amazonaws.com/wp-content/uploads/2011/07/SOP_Unequal_Voting_Rights-Amended0916.pdf).

ITEM 5. Adopt the following **new** subrule 50.66(22):

50.66(22) Use of electronic offering documents and electronic signatures.

a. *Definitions.* For purposes of this subrule, the following definitions apply.

"*Offering documents*" means documents that include, but are not limited to, the registration statement, prospectus, applicable agreements, charter, bylaws, opinion of counsel and other opinions, specimen, indenture, consent to service of process and associated resolution, sales materials, subscription agreement, and applicable exhibits.

"*Sales materials*" means materials that include only those materials to be used in connection with the solicitation of purchasers of the securities approved as sales literature or other related materials by the SEC, FINRA, and the states, as applicable.

"*Security breach*" means the unauthorized accessing, acquisition, or disclosure of any data that compromises the security or confidentiality of confidential personal information maintained by the person or business; provided, however, that for this purpose a "security breach" shall relate only to a system, technology, or process that is used in connection with or is introduced into a securities offering in order to implement the use of electronic offering documents or electronic signatures.

b. *Use of electronic offering documents and subscription agreements.*

(1) An issuer of securities or agent acting on behalf of the issuer may deliver offering documents over the Internet or by other electronic means, or in machine-readable format, provided all of the following requirements are met:

1. Each offering document:

- Is prepared, updated, and delivered in a manner consistent and in compliance with state and federal securities laws;

- Satisfies the formatting requirements applicable to printed documents, such as font size and typeface, and is identical in content to the printed version (other than electronic instructions or procedures as may be displayed and nonsubstantive updates to daily net asset value which can be updated more efficiently in the electronic version);

- Is delivered as a single, integrated document or file; when delivering multiple offering documents, the documents must be delivered together as a single package or list;

- Where the offering documents include a hyperlink to external documents or content, provides notice to investors or prospective investors that the document or content being accessed by the hyperlink is provided by an external source; and

- Is delivered in an electronic format that intrinsically enables the recipient to store, retrieve, and print the documents;

2. The issuer or agent acting on behalf of the issuer:

- Obtains informed consent from the investor or prospective investor to receive offering documents electronically;

INSURANCE DIVISION[191](cont'd)

- Ensures that the investor or prospective investor receives timely, adequate, and direct notice when an electronic offering document has been delivered;
- Employs safeguards to ensure that delivery of offering documents occurred at or before the time required by law in relation to the time of sale; and
- Maintains evidence of delivery by keeping records of its electronic delivery of offering documents and makes those records available on demand by the securities administrator.

(2) Subscription agreements may be provided electronically by an issuer or agent acting on behalf of the issuer for the prospective investor to review and complete, provided the subscription process is administered in a manner that is similar to the administration of subscription agreements in paper form, as follows:

1. Before completion of any subscription agreement, the issuer or agent acting on behalf of the issuer shall review with the prospective investor all appropriate documentation related to the prospective investment including documents and instructions on how to complete the subscription agreement;
2. Mechanisms shall be established to ensure a prospective investor reviews all required disclosures and scrolls through the document in its entirety prior to initialing or signing; and
3. Unless otherwise allowed by the securities administrator, a single subscription agreement shall be used to subscribe a prospective investor in no more than one offering.

(3) Security breach.

1. In the event of discovery of a security breach at any time in any jurisdiction, the issuer or its agents, as appropriate, shall take prompt action to do all of the following:

- Identify and locate the breach.
- Secure the affected information.
- Suspend the use of the particular device or technology that has been compromised until information security has been restored.
- Provide notice of the security breach to any investor whose confidential personal information has been improperly accessed in connection with the security breach and to the securities administrator of each state in which an affected investor resides.

2. Compliance with subparagraph 50.66(22)“b”(3) after the discovery of a security breach or any other breach of personal information shall not substitute or in any way affect other requirements or obligations, including notification, imposed on an issuer or its agents pursuant to applicable laws, regulations, or standards.

(4) Delivery requires that the offering documents be conveyed to and received by the investor or prospective investor, or that the storage media in which the offering documents are stored be physically delivered to the investor or prospective investor in accordance with numbered paragraph 50.66(22)“b”(1)“1.”

(5) Each electronic document shall be preceded by or presented concurrently with the following notice: **“Clarity of text in this document may be affected by the size of the screen on which it is displayed.”**

(6) Informed consent to receive offering documents electronically pursuant to the first bulleted paragraph of numbered paragraph 50.66(22)“b”(1)“2,” may be obtained in connection with each new offering or globally, either by the issuer or by an agent acting on behalf of the issuer. The investor may revoke this consent at any time by informing the party to whom the consent was given, or, if such party is no longer available, the issuer. Generally, a consent is considered to be informed when an investor is apprised that the document to be provided will be available through a specific electronic medium or source, and that there may be costs associated with delivery. In addition, for a consent to be informed an investor must be apprised of the time and scope parameters of the consent.

(7) Investment opportunities shall not be conditioned on participation in the electronic offering documents and subscription agreements initiative.

(8) Investors or prospective investors who decline to participate in an electronic offering documents and subscription agreements initiative shall not be subjected to higher costs—other than the actual direct cost of printing, mailing, processing, and storing offering documents and subscription agreements—as

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a result of their lack of participation in the initiative, and no discount shall be given for participating in an electronic offering documents and subscription agreements initiative.

(9) Entities participating in an electronic initiative shall maintain, and shall require participating underwriters, dealer-managers, placement agents, broker-dealers, or other selling agents to maintain, written policies and procedures covering the use of electronic offering documents and subscription agreements.

(10) Entities and their contractors and agents having custody and possession of electronic offering documents, including electronic subscription agreements, shall store them in a nonrewriteable and nonerasable format.

(11) Subrule 50.66(22) does not change or waive any other requirement of law concerning registration or presale disclosure of securities offerings.

c. Use of electronic signatures.

(1) An issuer of securities or agent acting on behalf of the issuer may provide for the use of electronic signatures if all of the following are true:

1. The process by which electronic signatures are obtained:
 - Shall be implemented in compliance with the Electronic Signatures in Global and National Commerce Act and the Uniform Electronic Transactions Act, and, where applicable, shall include required federal disclosures;
 - Shall include an appropriate level of security and assurances of accuracy;
 - Shall employ an authentication process to establish signer credentials;
 - Shall employ security features that protect signed records from alteration; and
 - Shall provide that either the issuer or agent acting on behalf of the issuer retain, in compliance with applicable laws and regulations, electronically signed documents;
2. An investor or prospective investor shall expressly opt in to the electronic signature initiative, and participation may be terminated at any time; and
3. Investment opportunities shall not be conditioned on participation in the electronic signature initiative.

(2) Entities that participate in an electronic signature initiative shall maintain, and shall require underwriters, dealer-managers, placement agents, broker-dealers, and other selling agents to maintain, written policies and procedures covering the use of electronic signatures.

(3) Documentation of an investor's election to participate in an electronic signature initiative by following the requirements of numbered paragraph 50.66(22) "b"(1)"2" may be obtained in connection with each new offering, or by an agent acting on behalf of the issuer. The investor may revoke this consent at any time by informing the party to whom the consent was given, or, if such party is no longer available, the issuer.

ITEM 6. Adopt the following **new** rule 191—50.91(502):

191—50.91(502) Notice filing requirement for federal crowdfunding offerings. This rule applies to offerings made under 17 CFR Section 227, federal Regulation Crowdfunding, General Rules and Regulations, and Sections 4(a)(6) and 18(b)(4)(C) of the Securities Act of 1933 (referred to collectively as "federal Regulation Crowdfunding").

50.91(1) Initial filing.

a. An issuer that offers and sells securities in this state in an offering that is exempt under federal Regulation Crowdfunding and that either (1) has its principal place of business in this state or (2) sells 50 percent or greater of the aggregate amount of the offering to residents of this state shall file with the administrator the following related to that exempt offering:

(1) A completed Uniform Notice of Federal Crowdfunding Offering form (Form U-CF, accessible through <http://www.nasaa.org/industry-resources/uniform-forms/>) or copies of all documents the issuer filed with the Securities and Exchange Commission related to that exempt offering;

(2) If the issuer is not filing on the Uniform Notice of Federal Crowdfunding Offering form, a completed consent to service of process form (Form U2, accessible through <http://www.nasaa.org/industry-resources/uniform-forms/>); and

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(3) A filing fee of \$100.

b. If the issuer has its principal place of business in this state, the filing required under paragraph 50.91(1)“a” shall be filed with the administrator when the issuer makes its Initial Form C filing with the SEC under the federal Regulation Crowdfunding concerning the offering with the SEC. If the issuer does not have its principal place of business in this state but residents of this state have purchased 50 percent or greater of the aggregate amount of the offering, the filing required under paragraph 50.91(1)“a” shall be filed when the issuer becomes aware that such purchases have met this threshold and in no event later than 30 days from the date of completion of the offering.

c. The initial notice filing is effective for 12 months from the date of the filing with the administrator.

50.91(2) *Renewal.* For each additional 12-month period in which the same offering described in paragraph 50.91(1)“a” is continued, an issuer conducting an offering under federal Regulation Crowdfunding may renew its notice filing by filing with the administrator the following on or before the expiration of the notice filing:

a. A completed Uniform Notice of Federal Crowdfunding Offering form (Form U-CF, accessible through <http://www.nasaa.org/industry-resources/uniform-forms/>), marked “renewal,” or a cover letter or other document requesting renewal; and

b. A renewal filing fee of \$100.

ITEM 7. Adopt the following **new** rule 191—50.92(502):

191—50.92(502) Notice filing requirement for Regulation A – Tier 2 offerings. This rule applies to an issuer offering and selling securities in this state in an offering exempt under Tier 2 of 17 CFR Section 230.251 et seq. (“federal Regulation A”) and Sections 18(b)(3) and 18(b)(4) of the Securities Act of 1933:

50.92(1) *Initial filing.*

a. An issuer planning to offer and sell securities in this state in an offering exempt under Tier 2 of federal Regulation A shall submit the following to the administrator at least 21 calendar days prior to the initial sale in this state:

(1) Either a completed Uniform Notice Filing of Regulation A – Tier 2 Offering form (accessible through <http://www.nasaa.org/industry-resources/uniform-forms/>) or copies of all documents the issuer filed with the Securities and Exchange Commission related to that Tier 2 offering;

(2) If the issuer is not filing on the Uniform Notice Filing of Regulation A – Tier 2 Offering form, a completed consent to service of process form (Form U2, accessible through <http://www.nasaa.org/industry-resources/uniform-forms/>); and

(3) A filing fee of \$400.

b. The initial filing is effective for 12 months from the date of the filing with the administrator.

50.92(2) *Renewal.* For each additional 12-month period in which the same offering described in paragraph 50.92(1)“a” is continued, an issuer conducting a Tier 2 offering under federal Regulation A may renew its notice filing by filing with the administrator the following on or before the expiration of the notice filing:

a. One of the following: the Uniform Notice Filing of Regulation A – Tier 2 Offering form (accessible through <http://www.nasaa.org/industry-resources/uniform-forms/>), a notice filing form marked “renewal,” or a cover letter or other document requesting renewal; and

b. A renewal filing fee of \$400.

ARC 3209C**PUBLIC HEALTH DEPARTMENT[641]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 730.5 and 2017 Iowa Acts, Senate File 32, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 12, “Approval of Confirmatory Laboratories for Private Sector Drug-Free Workplace Testing,” Iowa Administrative Code.

These amendments are proposed as a result of 2017 Iowa Acts, Senate File 32, which allows hair to be included in acceptable samples from the human body that may be taken to test a private sector prospective employee for drugs. Acceptable samples had been limited to urine, breath, blood, and saliva. Other proposed amendments are made to align with College of American Pathologists language for accrediting “forensic drug testing” laboratories, not “forensic urine drug testing” laboratories. Specifically, the following amendments are proposed.

In rule 641—12.2(730), the definition of “sample” is revised to add “hair” to the list of acceptable body samples which may reveal the presence of alcohol or other drugs.

Subrule 12.3(4) is amended to strike the word “urine” in reference to accreditation for forensic drug testing.

Rule 641—12.14(730), Renewal, is amended to strike the word “urine” in reference to accreditation for forensic drug testing.

Rule 641—12.16(730), Changes during approval periods, is amended to strike the word “urine” in reference to accreditation for forensic drug testing.

Rule 641—12.18(730), Denial, suspension, modification or revocation of approval, is amended to strike the word “urine” in reference to accreditation for forensic drug testing.

Rule 641—12.19(730), Restoration of approval, is amended to strike the word “urine” in reference to the on-site inspection for forensic drug testing.

Any interested person may make written comments or suggestions on the proposed amendments on or before August 8, 2017. Such written comments should be directed to Lori Hancock-Muck, Bureau of Substance Abuse, Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319. Comments may be sent by e-mail to lori.hancock-muck@idph.iowa.gov.

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

These amendments are intended to implement Iowa Code section 730.5 and 2017 Iowa Acts, Senate File 32.

The following amendments are proposed.

ITEM 1. Amend rule **641—12.2(730)**, definition of “Sample,” as follows:

“*Sample*” means such sample from the human body capable of revealing the presence of alcohol or other drugs, or their metabolites. However, “sample” does not mean blood except as authorized pursuant to Iowa Code subsection 730.5(7), paragraph “l.” For the purpose of these rules, the substances determined by the department to be samples from the human body capable of accurately and reliably revealing the presence of alcohol or other drugs, or their metabolites, are urine, breath, blood, hair and saliva.

ITEM 2. Amend subrule 12.3(4) as follows:

12.3(4) Designating the UHL to conduct an on-site inspection of each approved confirmatory laboratory at least once every two years. Inspection may be waived by the director if the laboratory has been inspected and accredited for forensic ~~urine~~ drug testing by the College of American Pathologists,

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or if the laboratory has been inspected and certified, licensed, or approved to conduct confirmatory testing by another state whose requirements are at least equal to Iowa's.

ITEM 3. Amend rule 641—12.14(730) as follows:

641—12.14(730) Renewal. Laboratory approval to continue confirmatory testing for alcohol or other drugs, or their metabolites, must be renewed annually. The request for renewal shall include the following:

1. Name and address of laboratory.
2. Renewal fee.
3. Information that reflects any changes that occurred during the current approval period.
4. Copy of supporting documents if the laboratory is accredited for forensic ~~urine~~ drug testing by the College of American Pathologists, or if it is certified, licensed, or approved through reciprocity.

ITEM 4. Amend rule 641—12.16(730) as follows:

641—12.16(730) Changes during approval periods. The following changes that occur during an approval period shall be submitted to the department within five working days from the date the change took place:

1. Change in laboratory director.
2. Change of address.
3. Change in supervisor.
4. Change in confirmation procedures.
5. Change in proficiency testing program.
6. Addition or subtraction of alcohol or other drugs, or their metabolites, being tested.
7. Change of ownership.
8. Loss of accreditation for forensic ~~urine~~ drug testing by the College of American Pathologists.

ITEM 5. Amend rule 641—12.18(730) as follows:

641—12.18(730) Denial, suspension, modification or revocation of approval. Any one of the following can result in denial, suspension, modification or revocation of approval. Failure of the confirmatory laboratory to:

1. Remain in compliance with the requirements of these rules.
2. Provide required documentation, including documentation of laboratory personnel and proficiency test results.
3. Maintain confidentiality.
4. Meet proficiency testing criteria.
5. Provide correct information.
6. Satisfactorily complete the two most recent and relevant graded proficiency test reports from a recognized proficiency testing program (for initial approval).
7. Correctly represent facts on a self-inspection questionnaire or other application documents.
8. Pass an on-site inspection conducted by the College of American Pathologists for forensic ~~urine~~ drug testing, or by another state whose requirements are at least equal to Iowa's, or by the UHL.

ITEM 6. Amend rule 641—12.19(730) as follows:

641—12.19(730) Restoration of approval. A confirmatory laboratory whose approval has been suspended, modified, or revoked may be reinstated within 90 days following the receipt of the following:

1. Documentation of actions that correct the reasons for suspension, modification, or revocation.
2. Documentation of a successful on-site inspection, if necessary, conducted by the College of American Pathologists for forensic ~~urine~~ drug testing, or by another state whose requirements are at least equal to Iowa's, or by the UHL.

ARC 3210C**PUBLIC HEALTH DEPARTMENT[641]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code chapter 136C and 2017 Iowa Acts, Senate File 250, the Iowa Department of Public Health hereby gives Notice of Intended Action to amend Chapter 41, “Safety Requirements for the Use of Radiation Machines and Certain Uses of Radioactive Materials,” Iowa Administrative Code.

These proposed amendments incorporate the language from 2017 Iowa Acts, Senate File 250, into administrative rule to meet the intent of the legislation enacted during the 2017 Legislative Session to require communication of breast density composition as reflected on the patient’s mammogram to physicians and patients. The Department currently regulates the content of the mammography reports sent to the patient’s physicians and of the lay letters sent directly to the patients. These amendments add requirements concerning the content of these reports and letters to include language and educational references regarding the patient’s breast density and resulting risk of cancer incidence and impacts on mammography interpretation related to increased tissue density.

Any interested person may make written comments or suggestions on the proposed amendments on or before August 8, 2017. Such written comments should be directed to Angela Leek, Bureau of Radiological Health, Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319. Comments may be sent by e-mail to angela.leek@idph.iowa.gov.

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

These amendments are intended to implement Iowa Code chapter 136C and 2017 Iowa Acts, Senate File 250.

The following amendments are proposed.

ITEM 1. Adopt the following **new** subparagraph **41.6(4)“b”(10)**:

(10) Information on a patient’s breast density, as categorized by an interpreting physician at the facility based on standards as defined in nationally recognized guidelines or systems for breast imaging reporting of mammography screening, including the breast imaging reporting and data system of the American College of Radiology.

ITEM 2. Adopt the following **new** subparagraph **41.6(4)“d”(3)**:

(3) The breast density information as designated in the report pursuant to 41.6(4)“b”(10) shall be included in the patient lay letter with a reference to a department-accepted site or document where the patient can obtain more information about breast density. For patients categorized as having heterogeneously dense breasts or extremely dense breasts, or an equivalent determination by another nationally recognized density gradient system, the notification to the patient shall include evidence-based information on dense breast tissue, the increased risk associated with dense breast tissue, and the effects of dense breast tissue on screening mammography and shall be stated in language appropriate for the facility’s patient population.

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PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code chapter 144 and 2017 Iowa Acts, Senate File 471, section 3, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 100, “Vital Records Registries and Reports,” Iowa Administrative Code.

The proposed amendments to Chapter 100 are required in order to implement and enforce the reporting requirements established under Iowa Code sections 144.29A and 146B.2 and 2017 Iowa Acts, Senate File 471, for the reporting of terminations of pregnancy.

Any interested person may make written suggestions or comments on the proposed amendments on or before August 8, 2017. Such written comments should be directed to Melissa Bird, Iowa Department of Public Health, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319. Comments may be sent by e-mail to melissa.bird@idph.iowa.gov.

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

These amendments are intended to implement Iowa Code chapter 144 and 2017 Iowa Acts, Senate File 471.

The following amendments are proposed.

ITEM 1. Amend rule 641—100.1(144) as follows:

641—100.1(144) Definitions. For the purpose of this chapter, the definitions in 641—Chapter 95 shall apply. In addition, the following definitions shall apply solely to this chapter:

“Abortion” means the termination of a human pregnancy with the intent other than to produce a live birth or to remove a dead fetus.

“Adult,” when used in reference to the mutual consent voluntary adoption registry, means an individual who has reached the age of 18 years at the time application is made.

“Aggregate form” means a compilation of the information received by the department on the Statistical Report of Termination of Pregnancy form for each item listed, with the exception of the report tracking number, the health care provider code, and any set of data for which the number is so small that the confidentiality of any person to whom the information relates may be compromised.

“Attempt to perform an abortion” means an act, or an omission of a statutorily required act, that, under the circumstances as the actor believes them to be, constitutes a substantial step in a course of conduct planned to culminate in the performing of an abortion.

“Child,” when used in reference to the declaration of paternity registry, means a person under 18 years of age for whom paternity has not been established.

“Court” means the juvenile court when used in reference to the declaration of paternity registry.

“Father” means the male, biological parent of a child when used in reference to the declaration of paternity registry.

“Fertilization” means the fusion of a human spermatozoon with a human ovum.

“Health care provider” means an individual licensed under Iowa Code chapter 148, 148C, 148D, or 152, or any individual who provides medical services under the authorization of the licensee.

“Inducing a termination of pregnancy” means the use of any means to terminate the pregnancy of a woman known to be pregnant with the intent other than to produce a live birth or to remove a dead fetus.

“Inducing a termination of pregnancy” includes abortion.

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“Major bodily function” includes but is not limited to functions of the immune system, normal cell growth, and digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

“Medical emergency” means a situation in which an abortion is performed to preserve the life of the pregnant woman whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy, or when continuation of the pregnancy will create a serious risk of substantial and irreversible impairment of a major bodily function of the pregnant woman.

“Medical facility” means any public or private hospital, clinic, center, medical school, medical training institution, health care facility, physician’s office, infirmary, dispensary, ambulatory surgical center, or other institution or location where medical care is provided to any person.

“Perform,” “performed,” or “performing,” relative to an abortion, means the use of any means, including medical or surgical, to terminate the pregnancy of a woman known to be pregnant with the intent other than to produce a live birth or to remove a dead fetus.

“Physician” means a person licensed under Iowa Code chapter 148.

“Postfertilization age” means the age of the unborn child as calculated from fertilization.

“Probable postfertilization age” means what, in reasonable medical judgment, will with reasonable probability be the postfertilization age of the unborn child at the time the abortion is to be performed.

“Reasonable medical judgment” means a medical judgment made by a reasonably prudent physician who is knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved.

“Registrant,” when used in reference to the declaration of paternity registry, means a person who has registered and claims to be the father of a child.

“Registry” means the declaration of paternity registry or the mutual consent voluntary adoption registry.

“Sibling” means one of two or more persons who are born of the same parents or, sometimes, who have at least one parent in common. “Sibling” also means brother or sister when used in reference to the mutual consent voluntary adoption registry.

“Spontaneous termination of pregnancy” means the occurrence of an unintended termination of pregnancy at any time during the period from conception to 20 weeks gestation and which is not a spontaneous termination of pregnancy at any time during the period from 20 weeks or greater which is reported to the department as a fetal death under Iowa Code chapter 144.

“Unborn child” means an individual organism of the species *Homo sapiens* from fertilization until live birth.

ITEM 2. Amend rule 641—100.5(144) as follows:

641—100.5(144) Statistical report of termination of pregnancy report. A health care provider who initially identifies and diagnoses a spontaneous termination of pregnancy or who induces a termination of pregnancy shall file with the department a Statistical Report of Termination of Pregnancy form for each termination.

100.5(1) The health care provider shall make a good-faith effort to obtain all of the following information that is available with respect to each termination:

- a. The confidential health care provider code as assigned by the department.
- b. The report tracking number.
- c. The maternal health services region of the Iowa department of public health, as designated as of July 1, 1997, in which the patient resides. If the patient resides in another state, the residence shall be reported as “nonresident.”
- d. The race of the patient.
- e. The age of the patient.
- f. The marital status of the patient.
- g. The educational level of the patient.

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h. The number of previous pregnancies, live births, and spontaneous or induced terminations of pregnancies.

i. The month and year in which the termination occurred.

j. The number of weeks since the patient's last menstrual period and a clinical estimate of gestation.

k. Whether the termination was spontaneous or induced.

l. The method used for an induced termination, including whether mifepristone was used.

100.5(2) In addition, a physician who performs or attempts to perform an abortion shall report to the department all of the following:

a. If a determination of probable postfertilization age of the unborn child was made, the probable postfertilization age determined and the method and basis of the determination.

b. If a determination of probable postfertilization age of the unborn child was not made, the basis of the determination that a medical emergency existed.

c. If the probable postfertilization age of the unborn child was determined to be 20 or more weeks:

(1) The basis of the determination of a medical emergency, or

(2) The basis of the determination that the abortion was necessary to preserve the life of an unborn child.

d. The method used for the abortion and:

(1) In the case of an abortion performed when the probable postfertilization age was determined to be 20 or more weeks, whether the method of abortion used was one that, in the physician's reasonable medical judgment, provided the best opportunity for an unborn child to survive, or

(2) If such a method was not used, the basis of the determination that termination of the human pregnancy in that manner would pose a greater risk than would any other available method of the death of the pregnant woman or of the substantial and irreversible physical impairment of a major bodily function.

100.5(2) 100.5(3) The health care provider who identifies a spontaneous termination or performs an induced termination shall prepare the report on the standard form and forward to the state registrar on or before the tenth day of each calendar month all records for the preceding month. Reports may be sent by certified mail to the state registrar. Termination reports shall be submitted within 30 days of the date of the occurrence.

100.5(3) 100.5(4) The department shall provide the forms, or the provider may use the master copy of the form provided by the department to make copies for reporting.

100.5(4) 100.5(5) The information shall be collected, reproduced, released, and disclosed in a manner which ensures the anonymity of:

a. The patient who experiences a termination of pregnancy;

b. The health care provider who identifies and diagnoses or induces a termination of pregnancy; and

c. The hospital, clinic, or health facility in which a termination of pregnancy is identified and diagnosed or induced.

100.5(5) 100.5(6) The department may share information with federal public health officials for the purpose of securing federal funding or conducting public health research. However, in sharing the information, the department shall not relinquish control of the information, and any agreement entered into by the department with federal public health officials to share information shall prohibit the use, reproduction, release, or disclosure of the information by federal public health officials in a manner which violates Iowa Code section 144.29A.

100.5(6) 100.5(7) The By June 30, annually, the department shall annually publish a demographic summary of the information obtained statistics for the previous calendar year, compiled from the reports for that year, except that the department shall not reproduce, release, or disclose any information obtained which reveals the identity of any patient, health care provider, hospital, clinic, or other health facility, and shall ensure anonymity in the following ways:

a. The department may use information concerning the report tracking number or concerning the identity of a reporting health care provider, hospital, clinic, or other health facility only for the purpose

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of information collection. The department shall not reproduce, release, or disclose this information for any purpose other than for use in annually publishing the demographic summary.

b. The department shall enter information from any report of termination submitted within 30 days of receipt of the statistical report of termination of pregnancy and, following entry of the information, shall immediately destroy the report by shredding it. However, entry of the information from a report shall not include any health care provider, hospital, clinic, or other health facility identification information including, but not limited to, the confidential health care provider code, as assigned by the department.

c. To protect confidentiality, the department shall limit release of information in an aggregate form which prevents identification of any individual patient, health care provider, hospital, clinic, or other health facility.

d. The department shall establish and use a methodology to provide a statistically verifiable basis for any determination of the aggregate level at which information may be released so that the confidentiality of any person is not comprised. The methodology shall consider both the counts of the events for each item of information and the population that could be represented.

~~100.5(7)~~ **100.5(8)** Reports, information, and records submitted and maintained are strictly confidential and shall not be released or made public upon subpoena, search warrant, discovery proceedings, or by any other means.

~~100.5(8)~~ **100.5(9)** The department shall assign a code to any health care provider who may be required to report a termination. An application procedure shall not be required for assignment of a code to a health care provider.

~~100.5(9)~~ **100.5(10)** A health care provider shall assign a report tracking number which enables the health care provider to access the patient's medical information without identifying the patient. The report tracking number shall be maintained by the provider for a period of six months after the end of the calendar year.

~~100.5(10)~~ **100.5(11)** To ensure proper performance of the reporting requirements, it is preferred that a health care provider who practices within a hospital, clinic, or other health facility authorize one staff person to fulfill the reporting requirements. For reporting of spontaneous terminations of pregnancy, a health care provider who practices within a hospital, clinic, or other health facility may file the required reporting forms with the department or may authorize one staff person to fulfill the reporting requirements. For reporting of induced terminations of pregnancy, the physician performing the termination shall file the required reporting forms with the department.

100.5(12) Reporting penalties.

a. A physician who fails to submit a report in accordance with 2017 Iowa Acts, Senate File 471, section 3(3), and these rules by the end of 30 days following the due date shall be subject to a late fee of \$500 for each additional 30-day period or portion of a 30-day period the report is overdue. The fee shall be collected by the department.

b. A physician required to report in accordance with 2017 Iowa Acts, Senate File 471, section 3(3), who has not submitted a report or who has submitted only an incomplete report more than one year following the due date may, in an action brought by the board of medicine in the manner in which actions are brought to enforce Iowa Code chapter 148, be directed by a court of competent jurisdiction to submit a complete report within a time period stated by court order or be subject to contempt of court.

c. A physician who intentionally or recklessly falsifies a report required under 2017 Iowa Acts, Senate File 471, section 3, is subject to a civil penalty of \$100. The civil penalty shall be collected by the department pursuant to Iowa Code chapter 17A and 641—Chapter 173.

~~100.5(11)~~ **100.5(13)** Any person who knowingly violates a provision of these rules is guilty of a serious misdemeanor pursuant to Iowa Code section 144.52.

ITEM 3. Amend **641—Chapter 100**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 144.29A, 144.52 and 252A.3A and 2017 Iowa Acts, Senate File 471, section 3.

ARC 3205C**PUBLIC HEALTH DEPARTMENT[641]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code chapter 135 as amended by 2017 Iowa Acts, House File 393, the Iowa Department of Public Health hereby gives Notice of Intended Action to rescind Chapter 112, “Biological Agent Risk Assessment,” Iowa Administrative Code.

2017 Iowa Acts, House File 393, repeals Iowa Code section 135.141(2)“c” that directs the Department to conduct and maintain a statewide risk assessment of biological agent danger. Since the creation of this statute in 2003, the federal government has established and implemented an effective national program. The Iowa Homeland Security and Emergency Management Department and the State Hygienic Laboratory are key partners in these efforts and agree that the federal program for identifying and tracking biological agents is adequately meeting the intent of this statute. The proposed amendment rescinds Chapter 112.

Any interested person may make written comments or suggestions on the proposed amendment on or before August 8, 2017. Such written comments or suggestions should be directed to Rebecca Curtiss, Bureau Chief of Emergency and Trauma Services, Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319. Comments may be sent by e-mail to rebecca.curtiss@idph.iowa.gov.

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

This amendment is intended to implement Iowa Code chapter 135 and 2017 Iowa Acts, House File 393.

The following amendment is proposed.

Rescind and reserve **641—Chapter 112**.

ARC 3212C**PUBLIC HEALTH DEPARTMENT[641]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 691.6, the Iowa Department of Public Health hereby gives Notice of Intended Action to amend Chapter 126, “State Medical Examiner,” Iowa Administrative Code.

The Office of the State Medical Examiner is proposing to change the recommended autopsy fee from \$1,400 to \$1,900 to cover the increasing costs of medical supplies, personnel, information management (costs associated with case management application maintenance, data storage, and security requirements), and of maintaining accreditation with the National Association of Medical Examiners (NAME). The base autopsy fee is retained by the Office of the State Medical Examiner and is applied toward providing forensic pathology and death investigation services.

The proposed amendment has been reviewed by the State Medical Examiner Advisory Council and the Iowa Office of the State Medical Examiner Interagency Council.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Any interested person may make written suggestions or comments on this proposed amendment on or before August 8, 2017. Such written comments should be directed to John Kraemer, Iowa Office of the State Medical Examiner, Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319. Comments may be sent by e-mail to john.kraemer@idph.iowa.gov.

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

This amendment is intended to implement Iowa Code section 691.6.

The following amendment is proposed.

Amend subrule 126.3(1) as follows:

126.3(1) Fee schedule. The fees collected under this subrule shall be considered repayment receipts as defined in Iowa Code section 8.2.

a. The following fees shall apply to autopsies conducted by the state medical examiner:

Autopsy	\$1400 <u>\$1900</u>
Copies of reports	\$20

EXCEPTIONS: A copy of the autopsy report is automatically sent to the county medical examiner and to the county attorney without fee. A single copy of an autopsy report may be provided to the immediate next of kin of the deceased without fee. Copies of autopsy reports may be provided to public officials and physicians of record for official purposes without fee.

b. The following fee is for time spent reviewing case materials, preparing for deposition or court, testifying in deposition or court, and travel time.

State, deputy, or associate medical examiner(s) time for all court cases	\$450 per hour with a one-hour minimum
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c. A cremation permit fee of \$75 will be assessed for each permit investigated and authorized by the state medical examiner's office.

ARC 3204C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code chapters 135, 147A and 613 and 2017 Iowa Acts, House File 393, the Iowa Department of Public Health hereby gives Notice of Intended Action to amend Chapter 143, “Automated External Defibrillator Program,” Iowa Administrative Code.

2017 Iowa Acts, House File 393, repeals the automated external defibrillator (AED) program established in Iowa Code section 135.26. It has been ten years since the funding for the program was eliminated, and the goal of providing defibrillators was achieved. The proposed amendment updates Chapter 143 by amending the chapter title, striking the rules that relate to the purchase and placement of automated external defibrillators, renumbering the rules regarding automated external defibrillator maintenance and amending the parenthetical reference to the statute implemented, and striking the rules concerning fire department response with automated external defibrillator.

Any interested person may make written comments or suggestions on the proposed amendment on or before August 8, 2017. Such written comments or suggestions should be directed to Rebecca Curtiss, Bureau Chief of Emergency and Trauma Services, Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319. Comments may be sent by e-mail to rebecca.curtiss@idph.iowa.gov.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

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

This amendment is intended to implement Iowa Code chapters 135, 147A and 613 and 2017 Iowa Acts, House File 393.

The following amendment is proposed.

Amend **641—Chapter 143** as follows:

CHAPTER 143
AUTOMATED EXTERNAL DEFIBRILLATOR PROGRAM MAINTENANCE

AUTOMATED EXTERNAL DEFIBRILLATOR GRANT PROGRAM

641—143.1(135) Purpose. An automated external defibrillator grant program is established to provide matching funds to eligible organizations that are seeking to implement an early defibrillation program. The objective of the grant program is to enhance and supplement the emergency response system in rural areas of the state by providing increased access to automated external defibrillator equipment by rural emergency and community personnel.

641—143.2(135) Definitions. For the purposes of these rules, the following definitions shall apply:

“Automated external defibrillator” or *“AED”* means an external semiautomatic device that determines whether defibrillation is required.

“Community organization” means an educational institution, nonprofit organization, social service agency, philanthropic organization, or business, trade, or professional association.

“CPR” means cardiopulmonary resuscitation.

“Department” means the Iowa department of public health.

“Early defibrillation program” means a program established by the applicant to enhance and supplement the local EMS system.

“EMS” means emergency medical services.

“Local board of health” means a county, city, or district board of health.

“Rural” means a geographic area outside an urban or suburban setting with a population of less than 15,000 persons.

641—143.3(135) Application process. To be eligible for an automated external defibrillator program grant, a local board of health, community organization or city shall:

143.3(1) Properly complete and submit the department’s AED grant program application, which shall require an applicant to:

a. Demonstrate the ability to provide matching funds of 50 percent of the cost of the program;

b. Designate an individual who shall be responsible for the overall supervision of the early defibrillation program; and

c. Include a plan for increasing rural emergency or community personnel access to automated external defibrillator equipment; and

143.3(2) Notify local EMS service programs of the intent to establish an early defibrillation program.

641—143.4(135) Early defibrillation program. A local board of health, community organization or city that receives an automated external defibrillator program grant shall:

143.4(1) Adopt and implement a policy that ensures establishment of an emergency plan of action; AED maintenance; personnel competency in the use of an AED and CPR; and a method for postevent analysis and staff debriefing.

143.4(2) Designate an individual who shall be responsible for the overall supervision of the early defibrillation program.

143.4(3) Submit an annual report to the department indicating the number of AED uses, patient outcomes and number of individuals trained.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

~~143.4(4) Comply with the terms and conditions of the contract with the department for implementation of the program.~~

~~641—143.5(135) Review process.~~ The department shall establish a request for proposal and application process for eligible organizations to apply for an automated external defibrillator program grant. The department shall establish a process to review applications, which shall include receiving input from a review committee. The review process and review criteria shall be described in the request for proposals.

~~641—143.6(135) Appeals.~~ An applicant may appeal the denial of a properly submitted grant application. Appeals shall be governed by 641—176.8(135,17A).

~~641—143.7 to 143.9 Reserved.~~

AUTOMATED EXTERNAL DEFIBRILLATOR MAINTENANCE

~~641—143.10 641—143.1(135 613) Purpose.~~ These rules establish standards for the maintenance of automated external defibrillators for a person or entity that owns, manages or is otherwise responsible for the premises on which an automated external defibrillator is located if the person or entity maintains the automated external defibrillator in accordance with Iowa Code section 613.17 as amended by 2008 Iowa Acts, Senate File 505.

~~641—143.11 641—143.2(135 613) Definition.~~ For the purposes of these rules, the following definition shall apply:

“Automated external defibrillator” or “AED” means an external semiautomatic device that determines whether defibrillation is required.

~~641—143.12 641—143.3(135 613) AED maintenance.~~ The person or entity maintaining the AED shall:

~~143.12(1) 143.3(1)~~ Ensure that the AED is maintained and inspected in accordance with the manufacturer’s guidelines.

~~143.12(2) 143.3(2)~~ Maintain records of all maintenance and inspections of the AED for the usable life of the device.

~~143.12(3) 143.3(3)~~ Ensure that the AED is programmed to conform to nationally accepted guidelines for treatment of cardiac arrest patients.

These rules are intended to implement Iowa Code section ~~135.26~~ 613.17.

~~641—143.13 to 143.15 Reserved.~~

FIRE DEPARTMENT RESPONSE WITH AUTOMATED EXTERNAL DEFIBRILLATOR

~~641—143.16(147A) Purpose.~~ The purpose of these rules is to allow a local fire department that is not authorized as an EMS service program and that has an AED to respond to cardiac arrest events in the department’s community. These rules are intended to enhance and supplement the local EMS system with nontraditional early defibrillation programs.

~~641—143.17(147A) Definitions.~~ For the purpose of these rules, the following definitions shall apply:

“Automated external defibrillator” or “AED” means an external semiautomatic device that determines whether defibrillation is required.

“CPR” means training and successful course completion in cardiopulmonary resuscitation, AED, and obstructed airway procedures for all age groups according to recognized national standards.

“Emergency medical care provider” means an individual who has been trained to provide emergency and nonemergency medical care at the first responder, EMT basic, EMT intermediate, EMT-paramedic, paramedic specialist or other certification levels recognized by the department before 1984 and who has been issued a certificate by the department.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

~~“Local fire department” means a paid, volunteer, or combination fire protection service provided by a benefited fire district under Iowa Code chapter 357B or by a county, municipality or township or a private corporate organization that has a valid contract to provide fire protection service for a benefited fire district, county, municipality, township or governmental agency. “Local fire department” does not include a military or private industrial fire department or an authorized Iowa EMS service.~~

~~“Service program” or “service” means any medical care ambulance service or nontransport service that has received authorization by the department.~~

~~**641—143.18(147A) Local fire department AED service registration.** A local fire department that desires to allow its firefighters to use an AED may register with the department to provide AED coverage.~~

~~**143.18(1) Training requirements.** Local fire department personnel wishing to provide AED coverage shall have current course completion in CPR.~~

~~**143.18(2) Local fire department AED service registration, guidelines, and standards.** A local fire department may register with the department to provide AED coverage. Local fire departments seeking registration with the department shall:~~

~~a. Complete the department’s AED service registration form initially and every five years thereafter.~~

~~b. Provide an AED liaison to be responsible for supervision of the AED service.~~

~~c. Ensure that the AED is maintained and inspected in accordance with rule 641—143.12(135).~~

~~d. Maintain records of all maintenance and inspections of the AED for the usable life of the device.~~

~~e. Ensure that the fire department’s AED providers maintain AED and CPR skill competency.~~

~~f. Identify which authorized Iowa ambulance service program(s) will provide patient transportation.~~

~~g. Ensure that emergency medical care is limited to CPR and AED.~~

~~**143.18(3) Complaints and investigations.** Complaints and investigations shall be conducted as with any complaint received against an EMS service program in accordance with rule 641—132.10(147A).~~

~~These rules are intended to implement Iowa Code chapters 135, 147A and 613.~~

ARC 3213C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code chapter 135 and section 135A.9 and 2017 Iowa Acts, House File 393, the Iowa Department of Public Health hereby gives Notice of Intended Action to amend Chapter 186, “Governmental Public Health Advisory Council,” Iowa Administrative Code.

2017 Iowa Acts, House File 393, division V, changes the definition of “local board of health” to be the same as defined in Iowa Code section 137.102. This proposed amendment updates the definition in Chapter 186.

Any interested person may make written suggestions or comments on this proposed amendment on or before August 8, 2017. Such written comments should be directed to Joy Harris, Bureau of Planning Services, Iowa Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319. Comments may be sent by e-mail to joy.harris@idph.iowa.gov.

The Department does not intend to grant waivers under the provisions of these rules.

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

PUBLIC HEALTH DEPARTMENT[641](cont'd)

This amendment is intended to implement Iowa Code chapter 135A and 2017 Iowa Acts, House File 393, divisions V and VII.

The following amendment is proposed.

Amend rule **641—186.2(135A)**, definition of “Local board of health,” as follows:
 “*Local board of health*” means a city, county, or district board of health.

ARC 3214C**PUBLIC HEALTH DEPARTMENT[641]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code chapter 135 and 2017 Iowa Acts, House File 393, the Iowa Department of Public Health hereby gives Notice of Intended Action to rescind Chapter 201, “Organized Delivery Systems,” Iowa Administrative Code.

2017 Iowa Acts, House File 393, division VII, removes all references to organized delivery systems from the Iowa Code. House File 393 removes the underlying statutory authority for Chapter 201. Iowa does not have any organized delivery systems operating in the state at this time due to other health organizational structures meeting the original intent of the legislation that created organized delivery systems. This proposed amendment rescinds Chapter 201.

Any interested person may make written suggestions or comments on this proposed amendment on or before August 8, 2017. Such written comments should be directed to Joy Harris, Bureau of Planning Services, Iowa Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319. Comments may be sent by e-mail to joy.harris@idph.iowa.gov.

The Department does not intend to grant waivers under the provisions of these rules.

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

This amendment is intended to implement Iowa Code chapter 135A and 2017 Iowa Acts, House File 393, division VII.

The following amendment is proposed.

Rescind and reserve **641—Chapter 201**.

ARC 3203C**REVENUE DEPARTMENT[701]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 421.14, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 71, “Assessment Practices and Equalization,” Iowa Administrative Code.

This proposed amendment updates the rule to comply with a change to the law enacted by 2017 Iowa Acts, Senate File 408, which requires licensure rather than registration of architects.

REVENUE DEPARTMENT[701](cont'd)

Any interested person may make written suggestions and comments on the proposed amendment on or before August 8, 2017. Such written comments should be directed to Legal Services, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. Persons who want to convey their views orally should contact Legal Services, Department of Revenue, at (515)725-2294 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by August 8, 2017.

After analysis and review of this rule making, the Department finds no fiscal impact.

Any person who believes that the application of the discretionary provisions of this rule 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).

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

This amendment is intended to implement Iowa Code section 441.31.

The following amendment is proposed.

Amend paragraph **71.20(1)“a”** as follows:

a. Occupation of members. One member of the county board of review must be actively engaged in farming as that member's primary occupation. However, it is not necessary for a board of review to have as a member one licensed real estate broker and one ~~registered~~ licensed architect or person experienced in the building and construction field if the person cannot be located after a good faith effort to do so has been made by the conference board (1966 O.A.G. 416). In determining eligibility for membership on a board of review, a retired person is not considered to be employed in the occupation pursued prior to retirement, unless that person remains in reasonable contact with the former occupation, including some participation in matters associated with that occupation.

ARC 3206C

REVENUE DEPARTMENT[701]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 421.14, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 72, “Examination and Certification of Assessors and Deputy Assessors,” Iowa Administrative Code.

The proposed amendment eliminates the right of persons who have taken the assessor or deputy assessor examination to review their examinations within 60 days after the date of the administration of the examination. Under the current rule, any persons who have taken the examination may, after presenting proper identification, review their examinations in the office of the Department's Property Tax Division within 60 days after the date the examination was administered. The Legislature recently charged the Department with reviewing the assessor examination and certification process as outlined in 2017 Iowa Acts, House File 478. As part of that review process, the Department determined that allowing a review of the examination has contributed to undermining its effectiveness. The Department has decided to rescind the privilege of reviewing the examination after it has been administered and, accordingly, rescinds the subrule allowing such review.

Any interested person may make written suggestions or comments on this proposed amendment on or before August 8, 2017. Such written comments should be directed to Legal Services, Iowa Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. Persons who want to convey their views orally should contact Legal Services, Department of Revenue, at (515)725-2294 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

REVENUE DEPARTMENT[701](cont'd)

Requests for a public hearing must be received by August 8, 2017.

After analysis and review of this rule making, the Department finds that this amendment will have no fiscal impact.

Any person who believes that the application of the discretionary provisions of this amendment 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).

After analysis and review of this rule making, the Department finds that no negative impact on jobs exists.

This amendment is intended to implement Iowa Code section 441.5.

The following amendment is proposed.

Rescind and reserve subrule **72.2(6)**.

ARC 3208C

REVENUE DEPARTMENT[701]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 421.14, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 80, “Property Tax Credits and Exemptions,” Iowa Administrative Code.

Iowa Code section 476B.6(1)“b”(2) requires the Department of Revenue to centrally assess wind energy conversion property located in a jurisdiction that has not enacted an ordinance to specially value this property under Iowa Code section 427B.26. However, Iowa Code section 476B.6 only applies to property placed in service after July 1, 2005, and before July 1, 2012. The administrative rule corresponding to this Iowa Code provision does not provide the dates required by the Iowa Code for being placed in service. The proposed amendment clarifies rule 701—80.13(427B,476B) to reflect the proper sunset date provided in the Iowa Code.

Any interested person may make written suggestions or comments on this proposed amendment on or before August 8, 2017. Such written comments should be directed to Legal Services, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. Persons who want to convey their views orally should contact Legal Services, Department of Revenue, at (515)725-2294 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by August 8, 2017.

After analysis and review of this rule making, the Department finds this amendment will have no fiscal impact.

Any person who believes that the application of the discretionary provisions of this amendment 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).

After analysis and review of this rule making, the Department finds that no negative impact on jobs exists.

This amendment is intended to implement Iowa Code section 476B.6.

The following amendment is proposed.

REVENUE DEPARTMENT[701](cont'd)

Amend rule 701—80.13(427B,476B) as follows:

701—80.13(427B,476B) Wind energy conversion property.

80.13(1) *Special valuation allowed by ordinance.* A city council or county board of supervisors may provide by ordinance for the special valuation of wind energy conversion property. If the ordinance is repealed, the special valuation applies through the nineteenth assessment year following the first year the property was assessed. Once the ordinance has been repealed and the special valuation is no longer applicable, the property must be valued at market value rather than at 30 percent of net acquisition cost. The special valuation applies to property first assessed on or after the effective date of the ordinance. The local assessor must value the property in accordance with the schedule provided in Iowa Code section 427B.26(2). The property qualifies for special valuation provided the taxpayer files a declaration of intent with the local assessor by February 1 of the assessment year in which the property is first assessed for tax to have the property locally assessed. The property must not be assessed until the assessment year following the year the entire wind plant is completed. A wind plant is completed when it is placed in service.

80.13(2) *Special valuation not allowed by ordinance.* If a city council or county board of supervisors has not passed an ordinance providing for the special valuation of wind energy conversion property, ~~the~~ property that was placed in service after July 1, 2005, and before July 1, 2012, is to be assessed by the department of revenue for a period of 12 years, and the taxes payable on the facilities are to be paid to the department at the same time as regular property taxes. The owner of the facility must file an annual report with the department by May 1 of each year during the 12-year assessment period, and the department must certify the assessed value of the facility by November 1 of each year to the county auditor. The board of supervisors must notify the county treasurer to state on the tax statement that the property taxes are to be paid to the department. The board must also notify the department of those facilities that are required to pay the property taxes to the department. The department must notify the county treasurer of the date the taxes were paid within five business days of receipt, and the notification is authorization for the county treasurer to mark the record as paid in the county system.

This rule is intended to implement Iowa Code section 427B.26 and chapter 476B ~~as amended by 2009 Iowa Acts, Senate File 456, sections 2 and 4.~~

ARC 3207C

REVENUE DEPARTMENT[701]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 421.14, the Department of Revenue, hereby gives Notice of Intended Action to amend Chapter 80, “Property Tax Credits and Exemptions,” Iowa Administrative Code.

The proposed amendment clarifies the reporting requirement for county auditors when filing a claim for the commercial and industrial property tax replacement. The amendment makes clear that the reporting requirements must be fulfilled each year, regardless of whether the Legislature appropriates funds to pay the replacement claims.

Any interested person may make written suggestions or comments on this proposed amendment on or before August 8, 2017. Such written comments should be directed to Legal Services, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. Persons who want to convey their views orally should contact Legal Services, Department of Revenue, at (515)725-2294 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

REVENUE DEPARTMENT[701](cont'd)

Requests for a public hearing must be received by August 8, 2017.

After analysis and review of this rule making, the Department finds this amendment will have no fiscal impact.

Any person who believes that the application of the discretionary provisions of this amendment 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).

After analysis and review of this rule making, the Department finds that no negative impact on jobs exists.

This amendment is intended to implement Iowa Code section 441.21A.

The following amendment is proposed.

Amend paragraph **80.49(2)“b”** as follows:

b. On or before September 1 of each fiscal year beginning on or after July 1, 2014, the county auditor shall, based upon the information in the report required to be provided in paragraph “*a*” of this subrule, prepare and submit a statement to the department of revenue which lists, for each taxing district in the county, the information required in 80.49(1). The county auditor shall prepare and submit the required information regardless of whether the legislature has appropriated funds to pay replacement claims for the current year.

ARC 3201C**TRANSPORTATION DEPARTMENT[761]****Notice of Intended Action**

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 307.12 and 307A.2, the Iowa Department of Transportation hereby gives Notice of Intended Action to rescind Chapter 110, “Highway Project Planning,” Iowa Administrative Code.

The Department is proposing to rescind Chapter 110. This chapter is redundant and superfluous. Iowa Code section 22.2 and 761—Chapter 4 allow for the public to obtain public records regarding highway project planning. The public may find information concerning highway project planning on the Department’s Web site.

These rules do not provide for 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.

Any person or agency may submit written comments concerning this proposed amendment or may submit a written request to make an oral presentation. The comments or request shall:

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.
3. Indicate the general content of a requested oral presentation.
4. Be addressed to Tracy George, Rules Administrator, Iowa Department of Transportation, Operations and Finance Division, 800 Lincoln Way, Ames, Iowa 50010; e-mail: tracy.george@iowadot.us.
5. Be received by the Department’s rules administrator no later than August 8, 2017.

A meeting to hear requested oral presentations is scheduled for Thursday, August 10, 2017, at 10 a.m. in the Administration Building, First Floor, North Conference Room, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa.

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

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

TRANSPORTATION DEPARTMENT[761](cont'd)

This amendment is intended to implement Iowa Code section 17A.3. The following amendment is proposed.

Rescind and reserve **761—Chapter 110**.

TREASURER OF STATE

Notice—Public Funds Interest Rates

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions Katie Averill, Superintendent of Banking Ronald L. Hansen, and Auditor of State Mary Mosiman has established today the following rates of interest for public obligations and special assessments. The usury rate for July is 4.25%.

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

74A.2 Unpaid Warrants	Maximum 6.0%
74A.4 Special Assessments	Maximum 9.0%

RECOMMENDED Rates for Public Obligations (74A.3) and School District Warrants (74A.7). A rate equal to 75% of the Federal Reserve monthly published indices for U.S. Government securities of comparable maturities. All Financial Institutions as defined by Iowa Code section 12C.1 are eligible for public fund deposits as defined by Iowa Code section 12C.6A.

The rate of interest has been determined by a committee of the state of Iowa to be the minimum interest rate that shall be paid on public funds deposited in approved financial institutions. To be eligible to accept deposits of public funds of the state of Iowa, a financial institution shall demonstrate a commitment to serve the needs of the local community in which it is chartered to do business. These needs include credit services as well as deposit services. All such financial institutions are required to provide the committee with a written description of their commitment to provide credit services in the community. This statement is available for examination by citizens.

New official state interest rates, effective July 11, 2017, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

7-31 days	Minimum .05%
32-89 days	Minimum .05%
90-179 days	Minimum .05%
180-364 days	Minimum .05%
One year to 397 days	Minimum .10%
More than 397 days	Minimum .45%

These are minimum rates only. All time deposits are four-tenths of a percent below average rates. Public body treasurers and their depositories may negotiate a higher rate according to money market rates and conditions.

Inquiries may be sent to Michael L. Fitzgerald, Treasurer of State, State Capitol, Des Moines, Iowa 50319.

ARC 3215C

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 8A.104(5), the Department of Administrative Services hereby amends Chapter 4, "Public Records and Fair Information Practices," Chapter 53, "Pay," Chapter 54, "Recruitment, Application and Examination," Chapter 59, "Promotion, Transfer, Temporary Assignment, Reassignment and Voluntary Demotion," Chapter 60, "Separations, Disciplinary Actions and Reduction in Force," Chapter 61, "Grievances and Appeals," Chapter 62, "Performance Review," Chapter 63, "Leave," and Chapter 64, "Benefits," and rescinds Chapter 70, "Employee Organization Dues," Iowa Administrative Code.

This rule making addresses human resources procedures. These amendments extend the application of these rules to ensure equal treatment of all employees covered by these rules. These amendments further clarify existing rules to align the rules with current procedures. The rescission of Chapter 70 is a result of changes to Iowa Code section 70A.19 as amended by 2017 Iowa Acts, House File 291, prohibiting the State from deducting dues for employee organizations from employee wages or salaries.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 3072C** on May 24, 2017. A public hearing was held on June 14, 2017.

Two people spoke at the hearing. Connie Brooks, who identified herself as a state employee, thanked the Department for recognizing employee rights under the merit system. Ms. Brooks also outlined three areas she said she is concerned about in the proposed amendments including the increase in discretionary compensation, the continued refusal of the Department to implement the Iowa Code with regard to transfers, and the continued abuse of Fair Labor Standards Act exemptions.

Danny Homan, who identified himself as the president of AFSCME Council 61, also spoke at the hearing. Mr. Homan highlighted his concerns about the following proposed amendments: Item 4 – 53.6(5), Item 5 – 53.7(2)"b," 53.7(3), and 53.7(4), Item 6 – 53.8(1), Item 7 – 53.9(2), Item 8 – 53.11(2), Item 9 – 54.2(4)"a" and 54.2(4)"b," and Item 16 – 61.1(4)"b." The topics identified by Mr. Homan include pay grade changes, performance reviews, leadworker pay, special pay as it pertains to call back pay, overtime, promotional lists, and grievance meetings.

The Department received written comments after the hearing from Morgan Miller, who identified herself as the political and legislative director of AFSCME Council 61. She submitted AFSCME's concerns about the following proposed amendments: Item 4 – 53.6(5), Item 5 – 53.7(2)"b," 53.7(3), and 53.7(4), Item 6 – 53.8(1), Item 7 – 53.9(2), Item 8 – 53.11(2), Item 9 – 54.2(4)"a" and 54.2(4)"b," Item 15 – 61.1(1), and Item 16 – 61.1(4)"b." The topics identified in Ms. Miller's submitted written comments after the public hearing include pay grade changes, performance reviews, leadworker pay, special pay as it pertains to call back pay, overtime, promotional lists, grievance procedure, and grievance meeting.

The Department also received a written submission through e-mail from Chris Vitek citing 53.11(2) as a topic for comment. The Department also received a written submission through e-mail from Steven Bowman citing Item 2 and 53.7(2) as a topic for comment.

These amendments are identical to those published under Notice of Intended Action on May 24, 2017.

Pursuant to Iowa Code section 17A.5(2)"b"(1)(b), the Department of Administrative Services finds that the normal effective date of these amendments, 35 days after publication, should be waived and the amendments made effective July 1, 2017, because the amendments confer a benefit upon the public in operating human resources functions of State government pursuant to changes as a result of 2017 Iowa Acts, House File 291.

The Department of Administrative Services will not grant waivers under the provisions of these rules, other than as may be allowed under Chapter 9 of the Department's rules concerning waivers.

The Department of Administrative Services adopted these amendments on June 28, 2017.

After analysis and review of these amendments, there is no expected impact to private sector job or employment opportunities. As such, these amendments will not impact private sector job categories, the number of jobs, or potential job opportunities in any regions of the State.

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These amendments are intended to implement Iowa Code section 8A.413.

These amendments became effective July 1, 2017.

The following amendments are adopted.

ITEM 1. Adopt the following **new** paragraphs **4.14(7)“e”** and **“f”**:

e. The fact that the state employee resigned in lieu of termination, was discharged, or was demoted as the result of disciplinary action and the documented reasons and rationale for the resignation in lieu of termination, the discharge, or the demotion.

f. Personnel settlement agreements between the state employee and the state employee's employer.

ITEM 2. Amend subrule 53.5(1) as follows:

53.5(1) Individual advanced appointment rate. For new hires, and reinstatements, ~~or promotions of employees in contract classes~~, the appointing authority may request pay in excess of the minimum based on education and experience directly related to duties that exceed the minimum qualifications of the class. The appointing authority shall maintain a written record of the justification for the advanced appointment rate. The record shall be a part of the official employee file. All employees possessing equivalent qualifications in the same class and with the same appointing authority may be adjusted to the advanced rate. Individual advanced appointment rates are subject to prior approval by the department.

ITEM 3. Amend subrule 53.6(3) as follows:

53.6(3) Red-circling. If the pay of an employee ~~in a noncontract class~~ exceeds the maximum pay for the class to which the employee is assigned, the employee's pay may be maintained (red-circled) above the maximum for up to one year. Requests to change the time period or the red-circled rate must first be submitted to the director for approval. If a request is approved, the appointing authority shall notify the employee in writing of any changes in the time period and the pay. If an employee's classification or agency changes, a request to rescind the red-circling may be submitted by the appointing authority to the director for approval. The director may also require red-circling in certain instances.

ITEM 4. Amend subrules 53.6(5) to 53.6(7) as follows:

53.6(5) Pay grade changes. If a transaction results in an employee ~~in a noncontract class~~ being paid in a higher pay grade, the employee's pay may be increased by up to 5 percent for each grade above the employee's current pay grade, except as provided in subrules 53.6(1) and 53.6(2). The implementation of pay grade changes for employees in contract classes ~~shall~~ may be negotiated with the applicable collective bargaining representative to the extent required. For setting eligibility dates, see subrule 53.7(5).

53.6(6) Promotion. For setting eligibility dates, see subrule 53.7(5).

a. Noncontract classes. If an employee is promoted ~~to a noncontract class~~, the employee may be paid at any rate in the pay grade of the pay plan to which the employee's new class is assigned, except as provided in subrules 53.6(1) and 53.6(2).

b. Contract classes. ~~If an employee is promoted to a contract-covered class, the employee shall receive a 5 percent pay increase, except as provided in subrules 53.5(1), 53.6(1), 53.6(2), and 53.6(4).~~

c. Leadworker. If an employee who is receiving additional pay for leadworker duties is promoted, the pay increase shall be calculated using the employee's new base pay ~~plus the leadworker pay~~.

53.6(7) Demotion. If an employee demotes voluntarily or is disciplinarily demoted, the employee may be paid at any pay rate within the pay grade of the pay plan to which the employee's new class is assigned that does not exceed the employee's pay at the time of demotion, except as provided in subrules 53.6(1), 53.6(2) and 53.6(4). For setting eligibility dates, see subrule 53.7(5).

ITEM 5. Amend rule 11—53.7(8A) as follows:

11—53.7(8A) Within grade increases.

53.7(1) General. An employee, upon completion of a minimum pay increase eligibility period, may receive a periodic increase in base pay that is within the pay grade and pay plan of the class to which the employee is assigned.

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a. No change.

b. *Noncreditable periods.* Except for ~~required~~ FMLA, workers' compensation, educational, and military leave, periods of leave without pay exceeding 30 calendar days shall not count toward an employee's pay increase eligibility period.

c. No change.

53.7(2) ~~Noncontract classes.~~ *Employee pay increases.* An eligible employee ~~in a noncontract class~~ may be given any amount of within grade pay increase up to the maximum pay rate for the employee's class. The pay increase shall be at the beginning of the pay period following completion of the employee's prescribed minimum pay increase eligibility period and shall not be retroactive, except as provided for in subrule 53.4(7).

a. *Performance.* Within grade pay increases shall be based on performance, are not automatic, and may be delayed beyond completion of the employee's minimum pay increase eligibility period. The amount of a within grade pay increase shall be determined by policies established by the appointing authority. To be eligible, a within grade pay increase must be accompanied by a current performance evaluation on which the employee received a an overall rating of at least "meets job expectations." Time spent on ~~required~~ FMLA, workers' compensation, educational, or military leave shall be considered to "meet job expectations."

b. No change.

53.7(3) ~~Contract classes.~~ ~~Within grade pay increases for employees in contract classes shall be in accordance with the terms of their collective bargaining agreement.~~

53.7(4) *Certified teachers.* Within grade pay increases for employees who are required to possess a current valid teaching certificate with appropriate endorsements and approvals by the Iowa department of education shall be based on ~~length of service,~~ performance and credentials.

53.7(5) *Eligibility dates.* An employee's pay increase eligibility date shall be set at the time of hire, and if the employee starts on the first working day of the pay period, it shall be the first day of the pay period following completion of the employee's minimum pay increase eligibility period. Otherwise, it shall be the first day of the pay period following the date the employee starts work.

a. and b. No change.

c. *No adjustment for FMLA, workers' compensation, educational, or military leave.* An employee who returns to work from ~~required~~ FMLA, workers' compensation, educational, or military leave shall have the employee's eligibility date restored without adjusting for the period of absence.

d. and e. No change.

53.7(6) *Suspension.* If within grade pay increases are suspended by an Act of the general assembly, the rules that provide for such increases shall also be suspended.

ITEM 6. Amend subrules 53.8(1) and 53.8(3) as follows:

53.8(1) *Leadworker.* An employee who is temporarily assigned lead work duties, as defined in rule 11—50.1(8A), may be given additional pay of up to 15 percent ~~unless otherwise provided in an applicable collective bargaining agreement~~ of the employee's base pay.

53.8(3) *Extraordinary duty.* An employee or class of employees who is are temporarily assigned higher level duties, including supervisory duties, may be given additional pay ~~in step or percent increments.~~ The amount of pay must be approved by the director.

ITEM 7. Amend rule 11—53.9(8A) as follows:

11—53.9(8A) **Special pay.**

53.9(1) *Shift differential.* If an overtime eligible employee ~~in a noncontract class~~ works for an appointing authority whose operations require other than a day shift, the employee shall receive a shift differential if scheduled to work four or more hours between 6 p.m. and 6 a.m. for two or more consecutive workweeks, or is regularly assigned to rotate shifts. The amount of the shift differential shall be determined by the director and paid in cents per hour. There shall be one rate for the 6 p.m. to midnight time period and another higher rate for the midnight to 6 a.m. time period. Employees who work in both time periods shall be paid at the rate applicable to the period in which the majority of

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their hours are worked. Employees who work equal amounts in both time periods shall be paid at the higher rate. The differential shall be in addition to the employee's regular base pay and shall be paid for all hours in pay status.

Employees in overtime exempt ~~noncontract~~ classes may receive a shift differential if a request is first submitted in writing and approved by the director. ~~Shift differential for employees in contract classes shall be in accordance with the terms of the applicable collective bargaining agreement.~~

53.9(2) Call back. If an overtime eligible employee in a ~~noncontract~~ class is directed to report to work during unscheduled hours that are not contiguous to the beginning or the end of the employee's assigned shift, the employee shall be paid a minimum of three hours. These hours ~~shall be considered as hours worked for purposes of determining overtime~~, but shall not count as standby hours if the employee is in standby status. Employees in overtime exempt ~~noncontract~~ classes may be eligible for call back pay, if a request is first submitted in writing and approved by the director.

~~Call back for employees in contract classes shall be in accordance with the terms of the applicable collective bargaining agreement.~~

53.9(3) Standby. If an employee in an overtime eligible ~~noncontract~~ class is directed to be on standby after the end of the employee's shift, the employee shall be paid 10 percent of the employee's hourly pay rate for each hour in a standby status. If required to be on standby, an employee shall receive at least one hour of standby pay. Time spent working while on standby shall not count in determining standby pay, nor shall standby hours count for purposes of determining overtime. Employees in overtime exempt classes may be eligible for standby pay if a request is first submitted in writing and approved by the director. ~~Standby for employees in contract classes shall be in accordance with the terms of the applicable collective bargaining agreement.~~

53.9(4) Discretionary payments. A lump sum payment for exceptional job performance may be given to an employee. A written explanation setting forth the reasons shall first be submitted to the director for approval.

53.9(5) Recruitment or retention payments. A payment to a job applicant or an employee may be made for recruitment or retention reasons. A written explanation shall first be submitted in writing to the director.

As a condition of receiving recruitment or retention pay, the recipient must sign an agreement to continue employment with the appointing authority for a period of time following receipt of the payment that is deemed by the appointing authority to be commensurate with the amount of the payment. If the recipient is terminated for cause or voluntarily leaves state employment, the recipient will be required to repay the appointing authority for the proportionate amount of the payment for the time remaining, and it will be recouped from the final paycheck. When the recipient changes employment to another state agency, then a repayment schedule must be approved by the director. Recoupment will be coordinated with the department of administrative services, state accounting enterprise, to ensure a proper reporting of taxes.

53.9(6) Pay for increased credentials. An employee in a ~~noncontract classification~~ who successfully completes a course of study, a certificate program, or any educational program directly related to the employee's current employment is eligible to receive an increase in base pay at the discretion of the appointing authority. Granting an increase pursuant to this subrule will not affect an employee's pay increase eligibility date and may not exceed the maximum pay for the assigned job classification pursuant to subrule 53.6(2).

ITEM 8. Amend rule 11—53.11(8A) as follows:

11—53.11(8A) Overtime.

53.11(1) Administration. Job classes shall be designated by the director as overtime eligible or overtime exempt.

53.11(2) Eligible job classes. An employee in a job class designated as overtime eligible shall be paid at a premium rate (one and one-half hours) ~~for every hour in pay status over 40 hours in a workweek~~ in accordance with the federal Fair Labor Standards Act.

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53.11(3) Exempt job classes. An employee in an overtime exempt job class shall not be paid for hours worked or in pay status over 40 hours in a workweek, ~~except as specifically provided for in a collective bargaining agreement.~~

53.11(4) Method of payment. Payment of overtime for employees ~~in nonecontract classes~~ shall be in cash or compensatory time. The decision shall rest with the employee, except that the appointing authority may require overtime to be paid in cash. Employees ~~in nonecontract classes~~ may elect compensatory time for call back, standby, holiday hours and for working on a holiday. ~~Payment of overtime for employees in contract classes shall be in accordance with the terms of the applicable collective bargaining agreement.~~

53.11(5) Compensatory time. An overtime eligible employee ~~in a nonecontract class~~ may accrue up to 80 hours of compensatory time before it must be paid off. Compensatory time may be paid off at any time, but it shall be paid off if the employee separates, transfers to a different agency, or moves to a class with a different overtime eligibility designation. ~~The paying off of compensatory time for employees in classes covered by a collective bargaining agreement shall be in accordance with the terms of the applicable agreement.~~

53.11(6) Holiday hours. Holiday hours that have already been paid at a premium rate shall not be counted in calculating overtime, ~~except as specifically provided for in a collective bargaining agreement.~~

ITEM 9. Amend subrule 54.2(4) as follows:

54.2(4) Application for eligible lists. Persons may apply to be on eligible lists as follows:

a. Promotional lists. Promotional applicants shall meet the minimum qualifications. Promotional applicants may be subject to keyboard examinations, background checks, psychological examinations, and other examinations used for further screening. The following persons may apply to be on promotional eligible lists:

(1) Persons who have attained permanent employee status, including permanent employees of the board of regents ~~and community-based corrections;~~

(2) to (4) No change.

(5) ~~Nonecontract employees~~ Employees who have been laid off are eligible to apply for promotional vacancies for a period of one year from the date of layoff.

b. All-applicant lists. The following persons may apply to be on all-applicant lists:

(1) to (4) No change.

(5) Permanent employees, including permanent employees of the board of regents ~~and community-based corrections;~~

(6) No change.

(7) Nonpermanent employees of the board of regents ~~and community-based corrections;~~ and

(8) No change.

ITEM 10. Amend rule 11—59.1(8A) as follows:

11—59.1(8A) Promotion. An appointing authority may promote an employee with permanent status if the employee meets the minimum qualifications and other promotional screening requirements for the position. The employee must be on the list of eligibles for the position and available under the conditions stated on the list request. Vacancies must be filled in accordance with 11—Chapter 56.

ITEM 11. Amend rules 11—59.4(8A) and 11—59.5(8A) as follows:

11—59.4(8A) Voluntary demotion. An appointing authority may grant an employee's written request for a demotion to a lower class. If the voluntary demotion involves movement from a position covered by merit system provisions to one that is not, the request must clearly indicate the employee's knowledge of the change in merit system coverage. If the employee objects to the change in coverage, the demotion shall not take effect. Also, no demotion shall be made from one position covered by merit system provisions to another, or from a position not covered by merit system provisions to one that is, until the employee is approved by the director as being qualified. A copy of the voluntary demotion request shall be sent by the appointing authority to the director at the time of the demotion.

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Voluntary demotion may be either intra-agency or interagency, and shall not be subject to appeal under these rules. Vacancies must be filled in accordance with 11—Chapter 56.

11—59.5(8A) Transfer. Transfers are restricted to the movement of an employee to a vacant position of the same or different job class in the same pay grade. Transfers may be interagency or intra-agency. To be eligible to transfer, the employee must meet any minimum qualifications and selective requirements for the position. Vacancies must be filled in accordance with 11—Chapter 56.

An employee may request a voluntary transfer. The decision to grant or deny ~~the~~ a request for voluntary transfer is made by the receiving appointing authority's authority.

An appointing authority may involuntarily transfer an employee. To do so, any applicable collective bargaining agreement provisions regarding transfer must first be exhausted. ~~Transfers may be interagency or intra-agency.~~ Involuntary interagency transfers require the approval of both the sending and the receiving appointing authorities.

~~To be eligible to transfer, the employee must meet any minimum qualifications and selective requirements for the position.~~

If the transfer of an employee would result in the loss of merit system coverage, the transfer shall not take place without the affected employee's written consent to the change in merit system coverage. A copy of the consent letter shall be forwarded by the appointing authority to the director. If the employee does not consent to the change in coverage, a reduction in force may be initiated in accordance with these rules or the applicable collective bargaining agreement.

ITEM 12. Amend rule 11—60.2(8A) as follows:

11—60.2(8A) Disciplinary actions. Except as otherwise provided, in addition to less severe progressive discipline measures, any employee is subject to any of the following disciplinary actions when the action is based on a standard of just cause: suspension, reduction of pay within the same pay grade, disciplinary demotion, or discharge. Disciplinary action involving employees covered by collective bargaining agreements shall be in accordance with the provisions of the agreement, if any. Disciplinary action shall be based on any of the following reasons: inefficiency, insubordination, less than competent job performance, refusal of a reassignment, failure to perform assigned duties, inadequacy in the performance of assigned duties, dishonesty, improper use of leave, unrehabilitated substance abuse, negligence, conduct which adversely affects the employee's job performance or the agency of employment, conviction of a crime involving moral turpitude, conduct unbecoming a public employee, misconduct, or any other just cause.

60.2(1) Suspension.

a. Suspension pending investigation. An appointing authority may suspend an employee for up to 21 calendar days with pay pending an investigation. A suspension pending investigation may be extended with approval from the director. If, upon investigation, it is determined that a suspension without pay was warranted as provided in subparagraph 60.2(1)“b”(1) below for an employee covered by the premium overtime provisions of the Fair Labor Standards Act, the appointing authority shall recover the pay received by the employee for the imposed period of suspension without pay.

b. No change.

60.2(2) to 60.2(6) No change.

ITEM 13. Amend subparagraph **60.3(3)“b”(2)** as follows:

(2) A performance evaluation period rated overall as “competent” or better, or “meets or exceeds expectations” or for which the “overall sum of ratings” is 3.00 or greater shall receive one retention point for each month of such rated service.

All employees shall be evaluated for performance in accordance with 11—subrule 62.2(2). If the period covered on the evaluation exceeds 12 months, the rating shall apply only to the most recent 12 months of the period. If the period covered by the evaluation exceeds 12 months and the employee's overall rating mandates the receipt of no credit pursuant to subparagraph 60.3(3)“b”(1), then that overall rating shall apply only to the first 12 months of the period and the remaining months shall be

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rated as competent. Time spent on ~~approved FMLA, workers' compensation, military leave, workers' compensation leave,~~ or educational leave with or without pay that is required by the appointing authority shall be counted as competent performance.

ITEM 14. Amend paragraph **60.3(5)“c”** as follows:

c. When bumping as set forth in paragraph 60.3(5)“b,” the employee shall indicate the class, but the appointing authority shall designate the specific position assignment within the reduction in force unit. The appointing authority may designate a vacant position if the department of management certifies that funds are available and after all applicable contract transfer and recall provisions have been exhausted. The appointing authority shall notify the employee in writing of the exact location of the position to which the employee will be assigned. After receipt of the notification, the employee shall have five calendar days in which to notify the appointing authority in writing of the acceptance of the position or be laid off.

Bumping to ~~another noncontract class~~ a merit-covered position in lieu of layoff shall be based on retention points regardless of full-time or part-time status and shall not occur if the result would be to cause the removal or reduction of an employee with more total retention points except as provided for in this subrule. If bumping occurs, the employee with the fewest total retention points in the class shall then be subject to reduction in force.

Pay upon bumping shall be in accordance with 11—subrule 53.6(11).

ITEM 15. Amend subrule 61.1(1) as follows:

61.1(1) Grievance procedure.

a. Step 1. The grievant shall initiate the grievance by submitting it in writing to the immediate supervisor, or to a supervisor designated by the appointing authority, within 14 calendar days following the day the grievant first became aware of, or should have through the exercise of reasonable diligence become aware of, the grievance issue. The immediate supervisor shall, within ~~seven~~ 14 calendar days after the day the grievance is received, attempt to resolve the grievance within the bounds of these rules and give a decision in writing to the grievant with a copy to the director.

b. Step 2. If the grievant is not satisfied with the decision obtained at the first step, the grievant may, within ~~seven~~ 7 calendar days after the day the written decision at the first step is received or should have been received, file the grievance in writing with the appointing authority. The appointing authority shall, within ~~seven~~ 14 calendar days after the day the grievance is received, attempt to resolve the grievance within the bounds of these rules; by affirming, modifying, or reversing the decision made at the first step, or otherwise grant appropriate relief. The decision shall be given to the grievant in writing with a copy to the director.

c. Step 3. If the grievant is not satisfied with the decision obtained at the second step, the grievant may, within 7 calendar days after the day the written decision at the second step was received, or should have been received, file the grievance in writing with the director. The director shall, within 30 calendar days after the day the grievance is received, attempt to resolve the grievance and send a decision in writing to the grievant with a copy to the appointing authority. The director may affirm, modify, or reverse the decision made at the second step or otherwise grant appropriate relief. If the relief sought by the grievant is not granted, the director's response shall inform the grievant of the appeal rights in subrule 61.2(5).

d. If the grievant is not satisfied with the decision obtained from the third step, the grievant may file an appeal in accordance with subrule 61.2(5).

ITEM 16. Amend subrule 61.1(4) as follows:

61.1(4) Grievance meetings.

a. No change.

b. The grievant may be ~~represented~~ assisted at a grievance meeting by an employee with the same bargaining status as the grievant. This peer employee may be of the grievant's choosing except where that would constitute a conflict of interest or unreasonably impact the operational efficiency of an appointing authority as determined by the director. ~~A grievant who wishes to be represented and whose class is covered by a collective bargaining agreement may only be represented by an appointed~~

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~~or elected union representative from the same employee organization as the grievant. A grievant who wishes to be represented and whose class is not covered by a collective bargaining agreement may only be represented by an employee with the same bargaining status as the grievant.~~

c. The grievant, an employee who is the grievant's representative peer, and employees authorized to attend the grievance meeting by the appointing authority or the director shall be in paid status for that time spent at and traveling to and from the grievance meeting during their regularly scheduled hours of work. In addition, employees shall, if eligible for overtime compensation, be in paid status for that time spent at and traveling to and from the grievance meeting outside of their regularly scheduled hours of work. In the case of a group grievance, only one of the grievants shall be in paid status. A grievant's peer shall not process or prepare for a grievance during work time except for meal and rest periods.

d. The appointing authority shall not authorize mileage, or the use of a state vehicle for employees to attend or participate in a grievance meeting, except for those employees who are required to attend or participate in the meeting by the appointing authority or the director. ~~In the case of group grievances, only one of the grievants shall be in paid status.~~

ITEM 17. Amend subrules 61.2(5) and 61.2(6) as follows:

61.2(5) Appeal of grievance decisions. An employee who has alleged a violation of Iowa Code sections 8A.401 to 8A.458 or the rules adopted to implement Iowa Code sections 8A.401 to 8A.458 may, within 30 calendar days after the date the director's response at the third step of the grievance procedure was issued or should have been issued, file an appeal with the public employment relations board. A nontemporary, ~~noncontract~~ employee covered by merit system provisions who is suspended, reduced in pay within the same pay grade, disciplinarily demoted, or discharged, except during the employee's period of probationary status, may, if not satisfied with the decision of the director, request an appeal hearing before the public employment relations board within 30 calendar days after the date the director's decision was issued or should have been issued. However, when the grievance concerns allegations of discrimination within the meaning of Iowa Code chapter 216, the Iowa civil rights commission procedures shall be the exclusive remedy for appeal and shall, in such instances, constitute final agency action. In all other instances, decisions by the public employment relations board constitute final agency action.

61.2(6) Appeal of disciplinary actions. Any nontemporary, ~~noncontract~~ employee covered by merit system provisions who is suspended, reduced in pay within the same pay grade, disciplinarily demoted, or discharged, except during the employee's period of probationary status, may bypass steps one and two of the grievance procedure provided for in rule 11—61.1(8A) and may file an appeal in writing to the director for a review of the action within 7 calendar days after the effective date of the action. The appeal shall be on the forms prescribed by the director. The director shall affirm, modify or reverse the action and shall give a written decision to the employee within 30 calendar days after the receipt of the appeal. The time may be extended by mutual agreement of the parties. If not satisfied with the decision of the director, the employee may request an appeal hearing before the public employment relations board as provided in subrule 61.2(5).

ITEM 18. Amend rule 11—61.3(8A) as follows:

11—61.3(8A) Informal settlement. The director or an appellant may request that an informal conference be held to determine if a dispute can be resolved in a manner agreeable to all parties prior to a contested case hearing. If the director and the appellant agree to negotiate a settlement, the various points of the proposed settlement shall be included in a written statement of facts. Negotiations for a settlement shall be completed at least five workdays prior to the date of the contested case hearing, unless additional time is agreed to by the director, the appellant and the public employment relations board, the department of inspections and appeals, or the classification appeal committee, as applicable. The settlement shall not be binding ~~when~~ until approved and signed by both the director and the appellant in accordance with the procedures set forth in 2017 Iowa Acts, House File 291, section 51.

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ITEM 19. Amend subrule 62.2(2) as follows:

62.2(2) Performance evaluation. A performance evaluation shall be prepared for each employee at least every 12 months. Additional evaluations may be prepared at the discretion of the supervisor. Ratings on the evaluation form are to be accompanied by descriptive comments supporting the ratings. The evaluation may also include job-related comments concerning achievements or areas of strength, areas for improvement, and training/development plans. The supervisor or team shall discuss the evaluation with the employee, and the employee shall be given the opportunity to attach written comments. Periods of service during FMLA, workers' compensation, military, or educational leave required by the appointing authority, or military leave, shall be considered as meeting job expectations.

Exit performance reviews shall be completed by the former supervisor on or before the last day before the movement of an employee to employment in another section, bureau, division or agency of state government. This review shall be for the period between the previous review up to the movement to the other position. A copy shall be forwarded to the new supervisor of the employee.

ITEM 20. Amend paragraph **63.2(2)“o”** as follows:

o. If on June 1 an employee has a balance of 160 or more hours of accrued leave, the employer may, with the approval of the employee, pay the employee for up to 40 hours of the accrued annual leave. This amount will be paid ~~on a separate warrant~~ on the payday which represents the last pay period of the fiscal year. Decisions regarding these payments will be made by each department director and are not subject to the grievance procedure provided for in these rules. ~~This paragraph applies only to employees not covered by a collective bargaining agreement.~~

ITEM 21. Amend subrule 63.4(8) as follows:

63.4(8) The appointing authority may request periodic reports concerning the employee's medical status, and the date the employee may return to work. Requests for periodic reports will be made no more often than necessary depending on the facts and circumstances of each case and shall not exceed one request every 30 days absent extenuating circumstances.

The appointing authority shall require written certification from the health care provider that the employee is able to resume work before allowing an employee with a serious health condition to return from FMLA leave. Upon return from FMLA leave, the employee shall be placed in a position in the same class held prior to the leave, or a class in the same pay grade for which the employee qualifies, with the same pay, benefits, terms and conditions of employment, and geographical proximate location, except that:

~~*a.* If if a reduction in force occurs while the employee is on leave, the employee's right to a position shall be established in accordance with 11—Chapter 60.~~

~~*b.* The employee's pay increase eligibility date shall be adjusted for absences of more than 30 calendar days.~~

ITEM 22. Amend subrule 63.4(14) as follows:

63.4(14) Retention of vacation leave. Notwithstanding subrule 63.4(3), ~~non-contract-covered~~ employees who qualify for FMLA leave are eligible to retain up to two weeks (80 hours) of accrued vacation leave in each fiscal year. An employee must elect, using forms prescribed by the department, to retain vacation by submitting the form to the employer no later than seven calendar days from the date it is determined that the employee's leave is covered by FMLA. An employee will not be permitted to retain more vacation than is in the employee's vacation bank at the time of election. Once the election is made, it cannot be increased; however, it may be reduced, at any time, to less than 80 hours. An employee will not be eligible to retain any donated leave.

~~For employees covered by a collective bargaining agreement, the retention of vacation leave will be governed by the collective bargaining agreement.~~

ITEM 23. Amend subrule 63.5(3) as follows:

63.5(3) Employees who do not supplement workers' compensation with sick leave, vacation or compensatory leave, and who are kept on the payroll in a nonpay status for more than 30 calendar days, shall be placed on leave without pay for purposes of probationary periods, ~~pay increase eligibility, and~~

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

other benefits. A written statement to this effect shall be sent to the employee within three days following the action by the appointing authority.

ITEM 24. Amend rule 11—64.1(8A) as follows:

11—64.1(8A) Health benefits. The director is authorized by the executive council of Iowa to administer health benefit programs for employees of the state of Iowa who are covered under Iowa Code chapter 509A. The executive council of Iowa shall determine the amount of the state's contribution toward each individual ~~non-contract-covered~~ employee's premium cost and shall authorize the remaining premium cost to be deducted from the employee's pay. The state's contribution for each contract-covered employee shall be as provided for in applicable collective bargaining agreements negotiated in accordance with Iowa Code chapter 20.

ITEM 25. Amend subrule 64.13(1) as follows:

64.13(1) Employee eligibility. All nontemporary employees who work at least 1040 hours per calendar year are eligible to participate in the health flexible spending account plan. Temporary employees are not eligible to participate in this plan. ~~Employees subject to a collective bargaining agreement shall have their eligibility determined by the collective bargaining agreement.~~

ITEM 26. Amend rule 11—64.16(8A), introductory paragraph, as follows:

11—64.16(8A) Sick leave insurance program. The director is authorized to establish a sick leave insurance program (program) for employees ~~not covered by a collective bargaining agreement~~. The program shall allow eligible employees to convert a portion of their sick leave balance at retirement into a sick leave bank with which the state will pay the state's share of retiree health insurance. Employees of the department of natural resources or department of public safety who are classified as peace officers and are not covered by a collective bargaining agreement shall receive benefits at retirement consistent with the provisions of the negotiated collective bargaining agreement with the State Police Officers Council. The benefits for sick leave banks earned by all department of public safety peace officer employees shall be administered by the department of public safety.

ITEM 27. Rescind and reserve **11—Chapter 70**.

[Filed Emergency After Notice 6/28/17, effective 7/1/17]

[Published 7/19/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/19/17.

ARC 3199C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 234.6 and 2017 Iowa Acts, House File 653, sections 90 to 92, the Department of Human Services amends Chapter 7, "Appeals and Hearings," and rescinds Chapter 87, "State-Funded Family Planning Program," and adopts a new Chapter 87, "Family Planning Program," Iowa Administrative Code.

These amendments implement a new state Family Planning Program (FPP) in accordance with legislative guidance pursuant to 2017 Iowa Acts, House File 653, sections 90 to 92.

As a result of these amendments, providers of family planning services will change as entities that provide abortions can no longer participate as an FPP provider. A provider unable to participate as an FPP provider will also be unable to participate as a point-of-service agency for eligibility determinations for FPP.

The Council on Human Services adopted these amendments on June 16, 2017.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Pursuant to Iowa Code section 17A.4(3), the Department finds that notice and public participation are unnecessary because emergency rule making is authorized by 2017 Iowa Acts, House File 653, section 91.

Pursuant to Iowa Code section 17A.5(2)“b”(1)(a), the Department also finds that the normal effective date of these amendments, 35 days after publication, should be waived and the amendments made effective July 1, 2017, because legislation (2017 Iowa Acts, House File 653, section 91) authorizes the Department to adopt emergency rules to implement the Family Planning Program.

These amendments are also published herein under Notice of Intended Action as **ARC 3198C** to allow for public comment.

These amendments do not provide for waiver in specified situations because the state legislation does not allow for any waiver. Waiver of any Department rule may be requested under the Department’s general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, providers of family planning services may see an increase or decrease in staffing needs based on the number of individuals seeking family planning services from their agency.

These amendments are intended to implement 2017 Iowa Acts, House File 653, sections 90 to 92.

The Administrative Rules Review Committee reviewed these amendments on June 13, 2017.

These amendments became effective July 1, 2017.

The following amendments are adopted.

ITEM 1. Amend subrule 7.2(3), introductory paragraph, as follows:

7.2(3) Medical assistance eligibility. Medical assistance eligibility includes, but is not limited to, FMAP-related coverage groups, SSI-related coverage groups, the breast and cervical cancer treatment program, the health insurance premium payment program, healthy and well kids in Iowa (HAWK-I), the Iowa Health and Wellness Plan, ~~family planning services~~, and waiver services. Issues may include:

ITEM 2. Rescind subrule 7.2(15) and adopt the following **new** subrule in lieu thereof:

7.2(15) Family planning program. Issues may include:

- a. A request to be given an application was denied.
- b. An application has been denied or has not been acted on in a timely manner.
- c. The person’s eligibility has been terminated or reduced.
- d. Who contests the effective date of assistance or services.
- e. Whose claim for payment or prior authorization has been denied.
- f. Who has received notice from the medical assistance hotline that services not received or services for which an individual is being billed are not payable by the family planning program.
- g. Who has been notified that an overpayment of benefits has been established and repayment is requested.

ITEM 3. Adopt the following **new** subrule 7.2(16):

7.2(16) Other individuals or providers. Individuals or providers that are not listed in rule 441—7.2(17A) may meet the definition of an aggrieved person if the department has taken an adverse action against that individual or provider.

ITEM 4. Amend paragraph **7.5(2)“f”** as follows:

f. The sole basis for denying, terminating or limiting assistance under 441—Chapter 47, ~~or 441—Chapter 58 or 441—Chapter 87~~ is that funds for the respective programs have been reduced, exhausted, eliminated or otherwise encumbered.

ITEM 5. Amend paragraph **7.5(4)“b”** as follows:

b. *Food assistance, medical assistance, family planning program or autism support program standard.* For appeals regarding food assistance, medical assistance, the family planning program or the autism support program, a hearing shall be held if the appeal is made within 90 days after official notification of an action. For appeals regarding a health care decision made by a managed care organization, a hearing shall be held if the appeal is made within 90 days after written notification that the first-level review process through the managed care organization has been exhausted. A hearing

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shall be held if the appeal is made within 90 days after the appeal is deemed to have exhausted the managed care organization's appeals process, as provided in paragraph 7.2(5) "c."

ITEM 6. Adopt the following **new** subrule 7.5(11):

7.5(11) *Appeals of family planning program overpayments.*

a. Subject to the time limits described in subrule 7.5(4), a person's right to appeal the existence and amount of a family planning program overpayment begins when the department sends the first notice informing the person of the overpayment. The notice shall be sent on Form 470-5483, Notice of Family Planning Program Assistance Overpayment.

b. A hearing shall not be held if an appeal is filed in response to a second or subsequent notice as identified in paragraph 7.5(11) "a."

ITEM 7. Amend paragraph **7.7(1) "b"** as follows:

b. For the purpose of this subrule, "assistance" includes food assistance, medical assistance, the family investment program, refugee cash assistance, child care assistance, emergency assistance, the family planning program, family or community self-sufficiency grant, PROMISE JOBS, state supplementary assistance, healthy and well kids in Iowa (HAWK-I) program, foster care, adoption, aftercare services, or other programs or services provided by the department.

ITEM 8. Amend paragraph **7.8(1) "a"** as follows:

a. Food assistance, medical assistance, child care assistance, family planning program and family investment program appeals may be made in person, by telephone or in writing as specified in subrule 7.8(2).

ITEM 9. Amend subrule 7.8(2) as follows:

7.8(2) *Filing the appeal.* The appellant shall be encouraged, but not required, to make written appeal on Form 470-0487 or 470-0487(S), Appeal and Request for Hearing, and the worker shall provide any instructions or assistance required in completing the form. When the appellant is unwilling to complete or sign this form, nothing in this rule shall be construed to preclude the right to perfect the appeal, as long as the appeal is in writing (except for food assistance, medical assistance, child care assistance, family planning program and family investment program appeals) and has been communicated to the department by the appellant or appellant's representative.

A written appeal submitted by mail is filed on the date postmarked on the envelope sent to the department; or, when the postmarked envelope is not available, on the date the appeal is stamped received by the agency. When an appeal is submitted through an electronic delivery method, such as electronic mail, submission of an online form, or facsimile, the appeal is filed on the date it is submitted. The electronic delivery method shall record the date and time the appeal request was submitted. If there is no date recorded by the electronic delivery method, the date of filing is the date the appeal is stamped received by the agency. Receipt date of all appeals shall be documented by the office where the appeal is received.

ITEM 10. Rescind 441—Chapter 87 and adopt the following **new** chapter in lieu thereof:

CHAPTER 87
FAMILY PLANNING PROGRAM

PREAMBLE

This chapter defines and structures the family planning program administered by the department pursuant to 2017 Iowa Acts, House File 653, section 90. The purpose of this program is to provide family planning services to individuals who are not enrolled in medical assistance under 441—Chapter 74 or 441—Chapter 75. The department is not receiving federal financial participation for expenditures under the family planning program. Therefore, this chapter shall remain in effect only as long as state funding is available.

The family planning program shall replicate the eligibility requirements and other provisions included in the Medicaid family planning network waiver, as approved by the Centers for Medicare and

HUMAN SERVICES DEPARTMENT[441](cont'd)

Medicaid Services of the U.S. Department of Health and Human Services in effect on June 30, 2017, but shall provide for distribution of the family planning services program funds in accordance with this chapter.

Distribution of family planning program funds under this chapter shall be made in a manner that continues access to family planning services.

441—87.1(217) Definitions.

“*Applicant*” means a person who applies for assistance under the family planning program described in this chapter.

“*Authorized Title X agency*” means an agency or entity with an executed memorandum of understanding (MOU) with the Iowa department of human services authorizing the agency to perform point-of-service eligibility determinations for the family planning program.

“*Creditable qualifying quarters*” means all of the qualifying quarters of coverage as defined under Title II of the Social Security Act worked by a parent of an alien while the alien was under the age of 18, and qualifying quarters worked by a spouse of an alien during their marriage if the alien remains married to the spouse or was married to the spouse at the spouse’s death, except for quarters beginning after December 31, 1996, if the parent or spouse of the alien received any federal means-tested public benefit during the period for which the qualifying quarter is credited.

“*Department*” means the Iowa department of human services.

“*Family planning services*” means pregnancy prevention and related reproductive health services.

441—87.2(217) Eligibility. Eligibility for the family planning program shall be determined according to the provisions of this rule.

87.2(1) *Persons covered.* Subject to funding as described in subrule 87.7(1) and to the requirements of subrules 87.2(2), 87.2(4), and 87.2(6), assistance for family planning services shall be available to the following individuals who are not enrolled in medical assistance pursuant to 441—Chapter 74 or 441—Chapter 75:

a. Women who were enrolled in medical assistance when their pregnancy ended and who are capable of bearing children but are not pregnant. Eligibility for these women extends for 12 consecutive months after the month when their 60-day postpartum period ends;

b. Women who are under the age of 55, who are capable of bearing children but are not pregnant, and who have household income that does not exceed 300 percent of the federal poverty level as determined pursuant to subrule 87.2(3);

c. Men who are under the age of 55, who are capable of fathering children, and who have household income that does not exceed 300 percent of the federal poverty level as determined pursuant to subrule 87.2(3).

87.2(2) *Furnishing of social security number.* As a condition of eligibility, except as provided by paragraph 87.2(2)“*a.*,” all social security numbers issued to each individual (including children) for whom family planning services are sought must be furnished to the department.

a. The requirement of furnishing a social security number does not apply to an individual who:

(1) Is not eligible to receive a social security number;

(2) Does not have a social security number and may only be issued a social security number for a valid nonwork reason in accordance with 20 CFR § 422.104; or

(3) Refuses to obtain a social security number because of a well-established religious objection.

For this purpose, a well-established religious objection means that the individual:

1. Is a member of a recognized religious sect or division of a sect; and

2. Adheres to the tenets or teachings of the sect or division of the sect and for that reason is conscientiously opposed to applying for or using a national identification number.

b. If a required social security number has not been issued or is not known, the individual seeking coverage under the family planning program must apply for a social security number with the Social Security Administration or request the Social Security Administration to furnish the number.

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87.2(3) Determination of household income. The department shall determine the countable household income of an individual applying under paragraph 87.2(1) "b" or "c" as follows:

a. Household composition. The household shall include the applicant or member, any dependent children, as defined below, living in the same home as the applicant or member, and any spouse living in the same home as the applicant or member, except when a dependent child or spouse has elected to receive supplemental security income under Title XVI of the Social Security Act.

(1) Definition of dependent children. A dependent child is one under the age of 18 years or aged 18 years who is a full-time student in a secondary school, or in the equivalent level of vocational or technical training, and who is reasonably expected to complete the program before reaching the age of 19.

(2) Reserved.

b. Earned income. All earned income that is received by a member of the household shall be counted except for earnings of a child who is a full-time student as defined in subparagraph 87.2(3) "a"(1). The following earned income, including but not limited to, shall be counted:

(1) Salary.

(2) Wages.

(3) Tips.

(4) Bonuses.

(5) Commissions.

(6) Income from Job Corp.

(7) Earnings from self-employment defined as gross income less the allowable costs of producing the income.

c. Unearned income. The following unearned income of all household members shall be counted:

(1) Unemployment insurance benefits.

(2) Child support.

(3) Alimony.

(4) Social security and railroad retirement benefits.

(5) Workers' compensation and disability payments.

(6) Benefits paid by the U.S. Department of Veterans Affairs to disabled members of the armed forces or survivors of deceased veterans.

d. Deemed income. Income deeming for a sponsored alien shall be determined pursuant to subrule 87.2(5).

e. Deductions. Deductions from income shall be made for any payments made by household members for the following:

(1) Court-ordered child support, alimony, or spousal support paid to non-household members.

(2) Twenty percent of nonexempt earnings.

(3) Child care expenses or expenses related to care for an incapacitated adult. This deduction shall not exceed \$200 per month for each child under the age of two and \$175 per month for each adult or child aged two or older.

87.2(4) Citizenship or alienage requirements.

a. To be eligible for the family planning program, a person must be one of the following:

(1) A citizen or national of the United States.

(2) A qualified alien residing in the United States before August 22, 1996.

(3) A qualified alien under the age of 21.

(4) A refugee admitted to the United States under Section 207 of the Immigration and Nationality Act (INA).

(5) An alien who has been granted asylum under Section 208 of the INA.

(6) An alien whose deportation is withheld under Section 243(h) or 241(b)(3) of the INA.

(7) A qualified alien veteran who has an honorable discharge that is not due to alienage.

(8) A qualified alien who is on active duty in the armed forces of the United States other than active duty for training.

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(9) A qualified alien who is the spouse or unmarried dependent child of a qualified alien described in subparagraph 87.2(4) "a"(7) or 87.2(4) "a"(8), including a surviving spouse who has not remarried.

(10) A qualified alien who has resided in the United States for a period of at least five years.

(11) An Amerasian admitted as described in 8 U.S.C. Section 1612(b)(2)(A)(i)(V).

(12) A Cuban/Haitian entrant as described in 8 U.S.C. Section 1641(b)(7).

(13) A certified victim of trafficking as described in Section 107(b)(1)(A) of Public Law 106-386 as amended to December 20, 2010.

(14) An American Indian born in Canada to whom Section 289 of the INA applies or who is a member of a federally recognized Indian tribe as defined in 25 U.S.C. Section 450b(e).

(15) An Iraqi or Afghan immigrant treated as a refugee pursuant to Section 1244(g) of Public Law 110-181 as amended to December 20, 2010, or to Section 602(b)(8) of Public Law 111-8 as amended to December 20, 2010.

b. As a condition of eligibility, all applicants for the family planning program shall attest to their citizenship or alien status by signing the application form.

c. Except as provided in paragraph 87.2(4) "f," applicants or members for whom an attestation of United States citizenship has been made pursuant to paragraph 87.2(4) "b" shall present satisfactory documentation of citizenship or nationality as defined in paragraph 87.2(4) "d," "e," or "i." A reference to a form in paragraph 87.2(4) "d" or "e" includes any successor form. An applicant or member shall have a reasonable period to obtain and provide required documentation of citizenship or nationality.

(1) For the purposes of this requirement, the "reasonable period" begins on the date a written request for documentation or a notice pursuant to subparagraph 87.2(4) "i"(2) is issued to an applicant or member, whichever is later, and continues for 90 days.

(2) Family planning services shall be approved for new applicants and continue for members not previously required to provide documentation of citizenship or nationality until the end of the reasonable period to obtain and provide required documentation of citizenship or nationality. However, the receipt of family planning services pending documentation of citizenship or nationality is limited to one reasonable period of up to 90 days for each individual. An applicant or member who has already received benefits during any portion of a reasonable period shall not be granted coverage for a second reasonable period.

d. Any one of the following documents shall be accepted as satisfactory documentation of citizenship or nationality:

(1) A United States passport.

(2) Form N-550 or N-570 (Certificate of Naturalization) issued by the U.S. Citizenship and Immigration Services.

(3) Form N-560 or N-561 (Certificate of United States Citizenship) issued by the U.S. Citizenship and Immigration Services.

(4) A valid state-issued driver's license or other identity document described in Section 274A(b)(1)(D) of the INA, but only if the state issuing the license or document either:

1. Requires proof of United States citizenship before issuance of the license or document; or

2. Obtains a social security number from the applicant and verifies before certification that the number is valid and is assigned to the applicant who is a citizen.

(5) Documentation issued by a federally recognized Indian tribe showing membership or enrollment in or affiliation with that tribe.

(6) Another document that provides proof of United States citizenship or nationality and provides a reliable means of documentation of personal identity, as the Secretary of the U.S. Department of Health and Human Services may specify by regulation pursuant to 42 U.S.C. Section 1396b(x)(3)(B)(v).

e. Satisfactory documentation of citizenship or nationality may also be demonstrated by the combination of:

(1) Any identity document described in Section 274A(b)(1)(D) of the INA or any other documentation of personal identity that provides a reliable means of identification, as the Secretary of the U.S. Department of Health and Human Services finds by regulation pursuant to 42 U.S.C. Section 1396b(x)(3)(D)(ii); and

(2) Any one of the following:

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1. A certificate of birth in the United States.
2. Form FS-545 or Form DS-1350 (Certification of Birth Abroad) issued by the U.S. Citizenship and Immigration Services.
3. Form I-97 (United States Citizen Identification Card) issued by the U.S. Citizenship and Immigration Services.
4. Form FS-240 (Report of Birth Abroad of a Citizen of the United States) issued by the U.S. Citizenship and Immigration Services.
5. Another document that provides proof of United States citizenship or nationality, as the Secretary of the U.S. Department of Health and Human Services may specify pursuant to 42 U.S.C. Section 1396b(x)(3)(C)(v).

f. A person for whom an attestation of United States citizenship has been made pursuant to paragraph 87.2(4)“*b*” is not required to present documentation of citizenship or nationality for the family planning program if any of the following circumstances apply:

- (1) The person is entitled to or enrolled for benefits under any part of Title XVIII of the federal Social Security Act (Medicare).
- (2) The person is receiving federal social security disability insurance (SSDI) benefits under Title II of the federal Social Security Act, Section 202 or 223, based on disability (as defined in Section 223(d)).
- (3) The person is receiving supplemental security income (SSI) benefits under Title XVI of the federal Social Security Act.
- (4) The person is a child in foster care who is assisted by child welfare services funded under Part B of Title IV of the federal Social Security Act.
- (5) The person is receiving foster care maintenance or adoption assistance payments funded under Part E of Title IV of the federal Social Security Act.
- (6) The person has previously presented satisfactory documentary evidence of citizenship or nationality, as specified by the Secretary of the U.S. Department of Health and Human Services.
- (7) The person is or was eligible for medical assistance pursuant to 42 U.S.C. Section 1396a(e)(4) as the newborn of a Medicaid-eligible mother.
- (8) The person is or was eligible for medical assistance pursuant to 42 U.S.C. Section 1397ll(e) as the newborn of a mother eligible for assistance under a state children’s health insurance program (SCHIP) pursuant to Title XXI of the Social Security Act.

g. If no other identity documentation allowed by subparagraph 87.2(4)“*e*”(1) is available, identity may be documented by affidavit as described in this paragraph. However, affidavits cannot be used to document both identity and citizenship.

(1) For children under the age of 16, identity may be documented using Form 470-4386 or 470-4386(S), Affidavit of Identity, signed by the child’s parent, guardian, or caretaker relative under penalty of perjury.

(2) For disabled persons who live in a residential care facility, identity may be documented using Form 470-4386 or 470-4386(S), Affidavit of Identity, signed by a residential care facility director or administrator under penalty of perjury.

h. If no other documentation that provides proof of United States citizenship or nationality allowed by subparagraph 87.2(4)“*e*”(2) is available, United States citizenship or nationality may be documented using Form 470-4373 or 470-4373(S), Affidavit of Citizenship. However, affidavits cannot be used to document both identity and citizenship.

(1) Two affidavits of citizenship are required. The person who signs the affidavit must provide proof of citizenship and identity. A person who is not related to the applicant or member must sign at least one of the affidavits.

(2) When affidavits of citizenship are used, Form 470-4374 or 470-4374(S), Affidavit Concerning Documentation of Citizenship, or an equivalent affidavit explaining why other evidence of citizenship does not exist or cannot be obtained must also be submitted and must be signed by the applicant or member or by another knowledgeable person (guardian or representative).

i. In lieu of a document listed in paragraph 87.2(4)“*d*” or “*e*,” satisfactory documentation of citizenship or nationality may also be presented pursuant to this paragraph.

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(1) Provision of an individual's name, social security number, and date of birth to the department shall constitute satisfactory documentation of citizenship and identity if submission of the name, social security number, and date of birth to the Social Security Administration produces a response that substantiates the individual's citizenship.

(2) If submission of the name, social security number, and date of birth to the Social Security Administration does not produce a response that substantiates the individual's citizenship, the department shall issue a written notice to the applicant or member giving the applicant or member 90 days to correct any errors in the name, social security number, or date of birth submitted, to correct any errors in the Social Security Administration's records, or to provide other documentation of citizenship or nationality pursuant to paragraph 87.2(4) "d" or "e."

87.2(5) *Deeming of alien sponsor's income.*

a. When an alien admitted for lawful permanent residence is sponsored by a person who executed an affidavit of support as described in 8 U.S.C. Section 1631(a)(1) on behalf of the alien, the income of the alien shall be deemed to include the income of the sponsor (and of the sponsor's spouse if living with the sponsor). The amount deemed to the sponsored alien shall be the total countable income of the sponsor and the sponsor's spouse, determined pursuant to paragraphs 87.2(3) "b" through "d."

b. An indigent alien is exempt from the deeming of a sponsor's income for 12 months after indigence is determined. An alien shall be considered indigent if:

- (1) The alien does not live with the sponsor; and
- (2) The alien's gross income, including any income actually received from or made available by the sponsor, is less than 100 percent of the federal poverty level for the sponsored alien's household size.

c. A battered alien as described in 8 U.S.C. Section 1641(c) is exempt from the deeming of a sponsor's income for 12 months.

d. Deeming of the sponsor's income does not apply when:

- (1) The sponsored alien attains citizenship through naturalization pursuant to Chapter 2 of Title II of the INA.
- (2) The sponsored alien has earned 40 qualifying quarters of coverage as defined in Title II of the Social Security Act or can be credited with 40 creditable qualifying quarters as defined in rule 441—87.1(217).
- (3) The sponsored alien or the sponsor dies.
- (4) The sponsored alien is a child under the age of 21.

87.2(6) *Residency requirements.* Residency in Iowa is a condition of eligibility for the family planning services program.

a. *Definition of resident.* A resident of Iowa is one:

(1) Who is living in Iowa voluntarily with the intention of making that person's home there and not for a temporary purpose. A child is a resident of Iowa when living there on other than a temporary basis. Residence may not depend upon the reason for which the individual entered the state, except insofar as it may bear upon whether the individual is there voluntarily or for a temporary purpose; or

(2) Who, at the time of application, is living in Iowa, is not receiving assistance from another state, and entered Iowa with a job commitment or seeking employment in Iowa, whether or not currently employed. Under this definition, the child is a resident of the state in which the parent or caretaker is a resident.

b. *Retention of residence.* Residence is retained until abandoned. Temporary absence from Iowa, with subsequent returns to Iowa, or intent to return when the purposes of the absence have been accomplished does not interrupt continuity of residence.

87.2(7) *Investigation by quality control or the department of inspections and appeals.* As a condition of eligibility, an applicant or member shall cooperate with the department when the applicant's or member's case is selected by quality control or the department of inspections and appeals for verification of eligibility unless the investigation revolves solely around the circumstances of a person whose income and resources do not affect family planning program eligibility. (See department of inspections and appeals rules in 481—Chapter 72.) Failure to cooperate shall serve as a basis for denial of an application or cancellation of family planning program eligibility. Once a person's eligibility is

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denied or canceled for failure to cooperate, the person may reapply but shall not be determined eligible until cooperation occurs.

87.2(8) *Funding contingency.* Initial and continuing eligibility for family planning services under this program is subject to the availability of funding appropriated for this purpose.

a. When appropriated funding is exhausted, ongoing eligibility shall be terminated and new applications shall be denied.

b. When appropriated funding becomes available, applications submitted thereafter will be considered on a first-come, first-served basis, based on the date of approval.

441—87.3(217) Enrollment.

87.3(1) *Application.* An individual who requests assistance for family planning services shall file an application Form 470-5485, Family Planning Program Application. A woman eligible under paragraph 87.2(1) “a” is not required to file an application for assistance under this program. The department will automatically redetermine eligibility upon loss of other Medicaid eligibility within 12 months after the month when the 60-day postpartum period ends.

87.3(2) *Place of filing.* An application may be filed at any department office or authorized Title X family planning agency.

87.3(3) *Information or verification needed to determine eligibility.* The department shall notify the applicant, authorized representative, or responsible person in writing of the information or verification required to establish eligibility. This notice shall be provided to the applicant, authorized representative, or responsible person personally or by mail or fax.

a. The department shall allow the applicant, authorized representative, or responsible person ten calendar days to supply the information or verification requested.

b. The department may extend the deadline for a reasonable period of time when the applicant, authorized representative, or responsible person is making reasonable efforts but is unable to secure the required information or verification.

c. If benefits are denied for failure to provide information or verification and the information or verification is provided within 14 calendar days of the effective date of the denial, the department shall complete the eligibility determination as though the information or verification were received timely. If the fourteenth calendar day falls on a weekend or state holiday, the applicant, authorized representative, or responsible person shall have until the next business day to provide the information.

87.3(4) *Annual review.* An individual who requests that assistance continue for family planning services shall complete Form 470-4071, Family Planning Program Review. The member must submit the completed review form before the end of the eligibility period to any location specified in subrule 87.3(2).

87.3(5) *Time limit for decision.* An application or review form shall be processed by the family planning agency with which the application was filed. A determination of eligibility shall be made within 45 days of receipt of the application or review form.

87.3(6) *Notice of decision.* The individual shall be notified in writing of the decision regarding eligibility for the family planning program.

441—87.4(217) Effective date of eligibility. Subject to the availability of funding appropriated for this purpose, assistance for family planning services under this program shall be effective on the first day of the month of application or the first day of the month in which all eligibility requirements are met, whichever is later. Assistance shall not be available under this program for any months prior to the month of application.

441—87.5(217) Period of eligibility. Eligibility for family planning services under this program shall be limited to a period of 12 months from the effective date of eligibility, or the duration of appropriated funding, whichever is less. A new application or annual redetermination of eligibility shall be required for benefits to continue beyond 12 months.

HUMAN SERVICES DEPARTMENT[441](cont'd)

441—87.6(217) Reporting changes.

87.6(1) Required changes to report. An individual applying for or receiving family planning services under this program shall report the following changes within ten days from the date the change is known:

- a. Change in mailing address;
- b. No longer a resident of Iowa;
- c. A woman becomes pregnant;
- d. No longer capable of bearing or fathering children;
- e. Becomes Medicaid eligible, except women meeting criteria in paragraph 87.2(1)“a”; or
- f. Turns 55 years of age.

87.6(2) Disregard of changes. An individual found to be eligible upon application or annual redetermination of eligibility shall remain eligible for 12 months or the duration of appropriated funding, whichever is less, regardless of any change in income or household size.

441—87.7(217) Funding of family planning services program.

87.7(1) Distribution of funds. Distribution of family planning services program funds shall be made to eligible, approved, and participating family planning providers subject to rule 441—87.11(217). Eligible family planning providers shall not include any provider that performs abortions or that maintains or operates a facility where abortions are performed and must attest to this fact. For the purposes of this subrule, “abortion” does not include any of the following:

a. The treatment of a woman for a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death.

b. The treatment of a woman for a spontaneous abortion, commonly known as a miscarriage, when not all of the products of human conception are expelled.

87.7(2) Recovery. The department shall recover from a member all funds incorrectly expended to or on behalf of the member for family planning program services.

441—87.8(217) Availability of services. Family planning services are payable for an individual enrolled in this program only when care is received at or authorized by a participating family planning provider.

87.8(1) Sterilization is a covered service subject to the limitations in 441—paragraphs 78.1(16) “a” through “i.”

87.8(2) Covered services shall not include abortion services.

441—87.9(217) Payment of covered services. Payment for family planning services covered under this chapter, including services authorized but not provided by a participating family planning provider, shall be made only to participating family planning providers on a fee schedule determined by the department. Family planning services program funds distributed in accordance with this rule shall not be used for direct or indirect costs, including but not limited to administrative costs or expenses, overhead, employee salaries, rent, and telephone and other utility costs, related to providing abortions as specified in subrule 87.7(1).

87.9(1) Fee schedule. The fee schedule shall include the amount of payment for each service and any limits on the service (e.g., a routine Pap smear is payable once annually).

87.9(2) Third-party payments. This program is the payer of last resort for services covered in this chapter. Any third-party payment received by the family planning agency or other provider of services plus any payments under this program cannot exceed the fee schedule allowance.

87.9(3) Supplementation. Payment made under this program shall be considered payment in full.

441—87.10(217) Submission of claims.

87.10(1) Family planning providers that participate in the program shall submit claims to the Iowa Medicaid enterprise for services rendered no later than 45 days from the last day of the month in which services were provided.

HUMAN SERVICES DEPARTMENT[441](cont'd)

87.10(2) Following a successful review of the claim, the Iowa Medicaid enterprise shall make payments to the family planning provider subject to the availability of funding and the allocation of available funds under subrule 87.7(1).

441—87.11(217) Providers eligible to participate.

87.11(1) Providers must be enrolled with the Iowa Medicaid program, subject to rule 441—79.14(249A), and otherwise qualified to provide family planning services under Medicaid, subject to the limitations related to abortions, as specified above under subrule 87.7(1).

87.11(2) Process for enrollment. Providers wishing to enroll under the state family planning program must complete the following steps:

- a. Must complete enrollment with Iowa Medicaid enterprise.
- b. Must complete Form 470-5484, Family Planning Program Provider Attestation, regarding nonprovision of abortions, pursuant to requirements referenced above under subrule 87.7(1).
- c. Forms referenced in this subrule must be sent to Iowa Medicaid Enterprise, Provider Enrollment Unit, P.O. Box 36450, Des Moines, Iowa 50315.

These rules are intended to implement 2017 Iowa Acts, House File 653, section 90.

[Filed Emergency 6/19/17, effective 7/1/17]

[Published 7/19/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/19/17.

ARC 3216C

SOIL CONSERVATION AND WATER QUALITY DIVISION[27]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 208.26, the Division of Soil Conservation and Water Quality hereby amends Chapter 60, "Minerals Program," Iowa Administrative Code.

This amendment changes the renewal period for mine site registration from one year to two years. The fee is maintained at the same annual rate by changing it from \$35 to \$70.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 3067C** on May 24, 2017. One comment of support was received from the public. This amendment is identical to that published under Notice.

Pursuant to Iowa Code section 17A.5(2)"b"(1)(b), the Division finds that the normal effective date of this amendment, 35 days after publication, should be waived and the amendment made effective July 1, 2017. The normal effective date is waived in order to provide a benefit to the public that allows the renewal period for mine site registration to run on the same new two-year period as the renewal period for a mining license, which was changed in 2017 Iowa Acts, House File 617.

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

This amendment is intended to implement Iowa Code chapter 208.

This amendment became effective July 1, 2017.

The following amendment is adopted.

Amend subrules 60.31(1) and 60.31(2) as follows:

60.31(1) *Registration renewal.* All site registrations shall expire on December 31 of ~~each~~ the second year. Registrations shall be renewed by the division upon submittal of renewal fee by the operator within 30 days of the expiration date.

60.31(2) *Notice of registration renewal and fee.* All registrations shall be renewed by the operator upon receipt of a fee statement from the division.

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The registration renewal fee shall be ~~\$35~~ \$70 per site.

[Filed Emergency After Notice 6/28/17, effective 7/1/17]

[Published 7/19/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/19/17.

ARC 3217C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Pursuant to the authority of Iowa Code section 10A.801 as amended by 2017 Iowa Acts, House File 640, and section 724.21A as amended by 2017 Iowa Acts, House File 517, the Department of Inspections and Appeals hereby amends Chapter 11, "Procedure for Contested Cases Involving Permits to Carry Weapons and Acquire Firearms," Iowa Administrative Code.

These amendments implement 2017 Iowa Acts, House File 517, section 27, which amends Iowa Code section 724.21A to provide for the award of attorney fees and court costs to certain prevailing parties in appeals involving permits to carry weapons and acquire firearms. The amendments require that the notice of hearing inform the parties of the potential award of attorney fees and court costs and provide a procedure for the administrative law judge to determine the amount of any attorney fee award.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 3073C** on May 24, 2017. A comment was received from the Iowa State Sheriffs' and Deputies' Association, which requested that the Department amend the rule to award contested case costs in a similar manner to the one used for attorney fees and court costs. The Department determined that it lacked statutory authority to amend the rule to provide for the award of contested case costs because the statute provides only for the award of reasonable attorney fees and court costs. After evaluating its existing rules and practices in response to the concerns raised, however, the Department has modified Item 4, subrule 11.11(3), to remove the obligation of sheriffs to pay contested case costs and to provide that the Department will charge for its costs only for cases arising out of decisions of the Commissioner of Public Safety, as the Department does for all other state agencies. The amendments are otherwise identical to those published under Notice of Intended Action.

The Department does not believe that the amendments impose any additional financial hardship on any regulated entity, body, or individual, beyond the impact of the amended statute being implemented.

No waiver provision is included in these rules because the statute that the rules implement is mandatory and the rules govern the procedures to be used in contested case proceedings, which include other safeguards for the administrative law judge to ensure that the parties are provided a fair, impartial, and individualized hearing.

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

These amendments are intended to implement Iowa Code section 10A.801 as amended by 2017 Iowa Acts, House File 640, and section 724.21A as amended by 2017 Iowa Acts, House File 517.

These amendments will become effective August 23, 2017.

The following amendments are adopted.

ITEM 1. Amend subrule 11.3(1) as follows:

11.3(1) The notice of hearing shall contain the following information:

- a. A statement of the time, place, and nature of the hearing;
- b. A statement of the legal authority and jurisdiction under which the hearing is to be held;
- c. A reference to the agency decision on appeal;
- d. Identification of the parties;
- e. Reference to the procedural rules governing the contested case proceeding;
- f. Identification of the administrative law judge, including the judge's ~~address and telephone number~~ contact information; ~~and~~
- g. Notification that failure to appear and participate in the contested case proceeding may result in the entry of a default judgment;
- h. Notification that the applicant or permittee shall be required to pay the agency's reasonable attorney fees and court costs if the agency's decision is affirmed in the contested case proceeding or in subsequent judicial review of the proceeding, or if the applicant or permittee withdraws or dismisses the contested case proceeding or subsequent judicial review action; and

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

i. Notification that the agency shall be required to pay the applicant's or permittee's reasonable attorney fees and court costs if it is determined in the contested case proceeding or in subsequent judicial review of the proceeding that the applicant or permittee is eligible to be issued or to possess the permit that was denied, suspended, or revoked.

ITEM 2. Amend rule 481—11.9(17A) as follows:

481—11.9(17A) Withdrawals and dismissals. A request for withdrawal or dismissal of the appeal may be made with the division prior to the hearing. Either request must be in writing or secured on the record.

11.9(1) Withdrawals. An applicant or permittee who requested a contested case proceeding may request a withdrawal of the appeal. Upon receipt of a request for withdrawal of the appeal, the administrative law judge shall issue an order dismissing the appeal and ~~closing the case~~ addressing the award of attorney fees pursuant to rule 481—11.11(10A).

11.9(2) Dismissals. An agency may request a dismissal of the appeal by agreeing to grant the entire relief sought by the applicant or permittee. The administrative law judge shall review a request for dismissal to determine whether it grants all relief requested in the appeal. If the request grants all relief requested in the appeal, the administrative law judge shall issue an order dismissing the appeal, ordering the agency to grant the relief requested, determining that no attorney fees are to be awarded, and closing the case.

ITEM 3. Amend rule 481—11.10(17A) as follows:

481—11.10(17A) Default. If a party fails to appear after proper service of notice, the administrative law judge may enter a default order against the party or may proceed with the hearing and make a decision in the absence of the party. The default order or decision made in the absence of the party shall address the award of attorney fees pursuant to rule 481—11.11(10A).

ITEM 4. Rescind rule 481—11.11(10A) and adopt the following new rule in lieu thereof:

481—11.11(10A) Attorney fees, court costs, and contested case costs.

11.11(1) Attorney fees. In a decision rescinding or sustaining the agency's denial, suspension, or revocation of the permit or otherwise granting a request to withdraw or dismiss the appeal, the administrative law judge shall determine whether a party is entitled to an award of attorney fees consistent with paragraph 11.11(1)"a" or "b." If a party is entitled to an award, the decision shall inform the parties of the applicable procedure provided in paragraph 11.11(1)"c" for determining the amount of such an award unless the administrative law judge determines the amount of an award in the decision as provided for in paragraph 11.11(1)"f."

a. If the administrative law judge rescinds the agency's denial, suspension, or revocation of the permit and determines the applicant or permittee is eligible to be issued or to possess the permit, the applicant or permittee shall be awarded any reasonable attorney fees. A dismissal of the appeal at the request of the agency under subrule 11.9(2) is not a determination that the applicant or permittee is eligible to be issued or to possess the permit and does not entitle the applicant or permittee to an award of attorney fees. An applicant or permittee who is not represented by an attorney in the contested case proceeding is not entitled to an award of attorney fees.

b. If the administrative law judge affirms the agency's denial, suspension, or revocation of the permit or grants the applicant's or permittee's request to withdraw or dismiss the appeal, the agency shall be awarded any reasonable attorney fees. Such an award to the agency shall be made to the political subdivision of the state representing the sheriff or to the state department representing the commissioner as applicable. An agency is not entitled to an award of attorney fees if the agency requests dismissal of the appeal under subrule 11.9(2) or if the agency is not represented by an attorney in the contested case proceeding.

c. Within 14 days of the date of a decision in which the administrative law judge determines that a party is entitled to an award of attorney fees, the party shall file a request for attorney fees and documentation supporting the request or a joint statement with the other party agreeing to the amount

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of reasonable attorney fees. Within 7 days of the filing of a request for attorney fees, the other party may file a resistance, including any relevant evidence, or a statement agreeing to the requested attorney fees. Upon request of either party or on the administrative law judge's own motion, a hearing may be scheduled on the issue of the attorney fee award.

d. If the party fails to file a request for attorney fees or a joint statement within 14 days, the administrative law judge shall issue an order determining that no attorney fees are awarded in the case. If the parties agree to the amount of reasonable attorney fees to be awarded, the administrative law judge shall issue an order awarding attorney fees consistent with the agreement. In all other cases, the administrative law judge shall issue a written order determining the reasonable attorney fees in the case.

e. The administrative law judge's decision is not final for purposes of rehearing under rule 481—11.14(17A) or judicial review under Iowa Code chapter 17A until the administrative law judge has issued a written decision determining the amount of any attorney fees to be awarded under this subrule or determining that no attorney fees are to be awarded.

f. If an application for rehearing under rule 481—11.14(17A) is denied, no additional attorney fees shall be awarded to either party. If an application for rehearing is granted, all the provisions of this subrule apply to the rehearing proceedings unless the only relief sought on rehearing relates to the attorney fee award. If the only relief sought relates to the attorney fee award, the order granting the application for rehearing shall provide that a party opposing the requested relief may file a resistance, including any relevant evidence, within 7 days of the date of the order and shall schedule a hearing or provide that a hearing may be scheduled upon the request of either party. In such a case, the administrative law judge shall issue a single final decision regarding the attorney fee award.

g. Any attorney fees awarded under this subrule shall be paid to the awarded party within 30 days of the issuance of an order determining the amount of attorney fees awarded unless an interested party seeks rehearing under rule 481—11.14(17A) or judicial review under Iowa Code chapter 17A or the parties agree to an alternative payment schedule. If a party seeks rehearing under rule 481—11.14(17A), the attorney fees shall be paid within 30 days of the denial of the application for rehearing or of any final decision awarding attorney fees after the grant of an application for rehearing. If a party seeks judicial review under Iowa Code chapter 17A, the attorney fee award shall be stayed pending resolution of the judicial review action. A party awarded attorney fees is responsible for taking any necessary action to enforce the award if payment is not made.

11.11(2) Court costs and attorney fees on judicial review. Any request for the award of court costs or for attorney fees incurred after the entry of an order determining reasonable attorney fees may only be made to the court in a judicial review action under Iowa Code chapter 17A, unless a party requests rehearing under rule 481—11.14(17A), in which case reasonable attorney fees may be awarded by the administrative law judge related to the request for rehearing consistent with paragraph 11.11(1) "f."

11.11(3) Contested case costs. Costs of the division in conducting a contested case proceeding arising out of a decision of the commissioner of public safety shall be charged to the department of public safety pursuant to Iowa Code section 10A.801(9).

This rule is intended to implement Iowa Code section 10A.801 as amended by 2017 Iowa Acts, House File 640, and section 724.21A as amended by 2017 Iowa Acts, House File 517.

ITEM 5. Amend rule 481—11.14(17A) as follows:

481—11.14(17A) Rehearing. An applicant, permittee, or agency aggrieved by an administrative law judge's final decision rescinding or sustaining the agency's denial, suspension, or revocation may request rehearing. A request for rehearing shall be made by filing an application for rehearing with the division within 20 days of the date of the administrative law judge's final decision and must state the specific grounds for the rehearing and the relief sought. If the only relief sought relates to the award of attorney fees, the application must include any argument and relevant evidence to be considered on rehearing. An application for rehearing shall be deemed to have been denied unless the administrative law judge

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grants the application within 20 days after its filing. A request for rehearing is not necessary to exhaust administrative remedies.

This rule is intended to implement Iowa Code ~~sections~~ section 724.21A as amended by 2017 Iowa Acts, House File 517, and section 17A.16.

[Filed 6/28/17, effective 8/23/17]

[Published 7/19/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/19/17.

ARC 3218C**REVENUE DEPARTMENT[701]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 422.68, the Department of Revenue hereby amends Chapter 39, "Filing Return and Payment of Tax," Iowa Administrative Code.

Rule 701—39.12(422) implements Iowa Code section 422.21(2), which provides an extension for filing Iowa income tax returns for certain people serving in combat zones or hazardous duty areas and for certain other members of the military. This extension is available, both for Iowa purposes and at the federal level, to certain civilians serving in support of the military in combat zones or hazardous duty areas. However, the existing rule does not mention civilians who may qualify, which has led to confusion among affected Iowa taxpayers. This amendment provides updated guidance on which civilians qualify and how a qualifying person may apply for an extension with the Department. This amendment also reorganizes the rule to make it more user-friendly and removes some outdated references.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 3066C** on May 24, 2017. No public comments were received in relation to this rule making. This amendment is identical to that published under Notice of Intended Action.

Any person who believes that the application of the discretionary provisions of these rules 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).

The Department of Revenue adopted this amendment on June 28, 2017.

After analysis and review of this rule making, the Department finds that this amendment is not likely to have a significant impact on jobs.

This amendment is intended to implement Iowa Code section 422.21.

This amendment will become effective August 23, 2017.

The following amendment is adopted.

Amend rule 701—39.12(422) as follows:

701—39.12(422) Tax benefits for persons in the armed forces deployed outside the United States and for certain other persons serving in support of those forces.

39.12(1) Extension of deadlines.

a. Extension of certain deadlines for certain military personnel.

(1) For tax years ending after August 2, 1990, a number of state tax benefits are authorized the time period to file state income tax returns and to perform certain other acts related to the department ("certain other acts related to the department" is defined in paragraph 39.12(1) "e" below) is extended for persons in the armed forces who:

1. Who serve in an area designated by the President and or the Congress as a combat zone. Similar state tax benefits are also authorized for persons who

2. Who serve in an area designated by the President and or the Congress as a qualified hazardous duty area for tax years beginning on or after January 1, 1999. In addition, uniform state tax benefits are authorized for persons in the armed forces of the United States who

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3. Who were deployed outside the United States in an operation designated by the Secretary of Defense as a contingency operation as defined in 10 U.S.C. § 101(a)(13), or which became a contingency operation by the operation of law. Persons who were deployed in a contingency operation who ceased to participate in such operation on or after May 21, 2003, are considered to be eligible individuals for purposes of being granted additional time to perform certain acts with the department to the extent the period for performing an act did not expire prior to May 21, 2003, or a later date if the person ceased to participate in the contingency operation on a date after May 21, 2003.

(2) For tax years beginning on or after January 1, 2008, the additional time to file returns and perform other acts related to the department described in this subrule is available to all active duty military service members in the armed forces, all armed forces military reservists, and all national guard personnel who are deployed outside the United States. These armed forces, armed forces reserve and national guard personnel are not required to be deployed outside the United States in a combat zone, qualified hazardous duty area, or contingency operation to be allowed the additional time to file Iowa returns and perform other acts related to the department.

b. *Extension applicable to certain civilians.* Those persons who were serving in support of the armed forces personnel in a combat zone or those persons who were serving in support of armed forces personnel in a qualified hazardous duty area are also eligible for the state tax benefits extension of the time period to file state income tax returns and to perform certain other acts related to the department. Persons eligible under this provision include certain civilians who were working in a combat zone and directly supporting military operations. Iowa allows this extension for those civilians who qualify for a federal extension under Section 7508(a) of the Internal Revenue Code. Examples of civilians who may be eligible are members of the Red Cross and contractors or civilian employees who worked in a combat zone. The eligible individuals are given the same additional time period to file state income tax returns and perform other acts related to the department of revenue as would constitute timely filing of returns or timely performance of other acts as described in Section 7508(a) of the Internal Revenue Code. "Other acts related to the department of revenue" includes filing claims for refund for any type of tax administered by the department, making tax payments other than withholding payments, filing appeals on tax matters, filing returns for taxes other than income tax, and performing other acts such as making timely contributions to individual retirement accounts.

c. *Extension applicable to spouses of eligible individuals.* The additional time period for filing returns and performing other acts applies to the spouse of the person who was in the combat zone or the qualified hazardous duty area or the spouse of a person who was serving in support of persons in the combat zone or the hazardous duty area to the extent the spouse files jointly or separately on the combined return with the person who was in the combat zone or the hazardous duty area, or when the spouse is a party with the person who was serving in support of persons in the combat zone or hazardous duty area to any tax matter with the department for which the additional time period is allowed.

d. *Length of the extension period.* Eligible individuals are given the same additional time period to file state income tax returns and perform other acts related to the department as would constitute timely filing of returns or timely performance of other acts as described in Section 7508(a) of the Internal Revenue Code. The additional time period for filing state returns and performing other acts is 180 days after the person leaves the combat zone or hazardous duty area or ceases to participate in the contingency operation which is the same time period as allowed in federal income tax law. However, a person who was hospitalized because of illness or injury in the combat zone or the hazardous duty area has up to five years to file returns or perform certain acts with this department after leaving the combat zone or hazardous duty area.

e. *Other acts related to the department defined.* "Other acts related to the department" includes filing claims for refund for any type of tax administered by the department, making tax payments other than withholding payments, filing appeals on tax matters, filing returns for taxes other than income tax, and performing other acts such as making timely contributions to individual retirement accounts.

39.12(2) *Application for the extension.* For tax years beginning on or after January 1, 1995, certain persons performing peacekeeping duties in a location designated by Congress as a qualified hazardous duty area or other individuals performing military duties overseas in support of the persons in the

REVENUE DEPARTMENT[701](cont'd)

~~hazardous duty area are eligible for the tax benefits described above. See rule 701—39.14(422) for additional information on the Bosnia-Herzegovina hazardous duty area. In order to claim the extension described in subrule 39.12(1), eligible taxpayers should notify the department of their eligibility by sending the information listed below to the e-mail address or other address listed on the department's Web site.~~

~~*a. Contents of the notification.* The notification sent to the department should include:~~

- ~~(1) The taxpayer's name, and spouse's name, if applicable.~~
- ~~(2) The taxpayer's stateside address, and spouse's address, if applicable.~~
- ~~(3) The taxpayer's date of birth, and spouse's date of birth, if applicable.~~
- ~~(4) The date the taxpayer was deployed to the combat zone or other qualifying area.~~
- ~~(5) For military personnel, an official document that indicates the taxpayer's area of operation.~~
- ~~(6) For qualifying civilians, a letter of authorization or similar letter from the taxpayer's employer, or a letter from the military stating that the taxpayer served in a "tax-free zone" or "Combat Zone Tax Exclusion Area (CZTE)."~~

~~*b. Who may submit the notification of eligibility for the extension.* The notification of eligibility to the department may be submitted by the taxpayer, the taxpayer's spouse, or an authorized agent or representative of the taxpayer.~~

~~**39.12(3)** For tax years beginning on or after January 1, 2008, the additional time to file returns and perform other acts related to the department of revenue described in subrule 39.12(1) is available to all active duty military service members in the armed forces, all armed forces military reservists, and all national guard personnel who are deployed outside the United States. These armed forces, armed forces reserve and national guard personnel are not required to be deployed outside the United States in a combat zone, qualified hazardous duty area, or contingency operation to be allowed the additional time to file Iowa returns and perform other acts related to the department of revenue.~~

~~This rule is intended to implement Iowa Code sections 422.3 and 422.21 as amended by 2009 Iowa Acts, Senate File 253.~~

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