



IOWA ADMINISTRATIVE BULLETIN

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Pages 99 to 178

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PREFACE

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

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

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

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

JACK EWING, Administrative Code Editor
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CITATION of Administrative Rules

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

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

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

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

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

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

Schedule for Rule Making 2022

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

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
4	Friday, August 5, 2022	August 24, 2022
5	Wednesday, August 17, 2022	September 7, 2022
6	Friday, September 2, 2022	September 21, 2022

PLEASE NOTE:

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

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

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

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

The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, August 9, 2022, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Renewable fuel infrastructure program, 13.1, 13.2(4), 14.2, 16.1 to 16.5 Notice **ARC 6426C** 7/27/22
Marketing, ch 52 Notice **ARC 6433C** 7/27/22

CORRECTIONS DEPARTMENT[201]

Organization, procedures, institutions administration—five-year review of rules,
amendments to chs 1, 20 Filed **ARC 6431C** 7/27/22

HUMAN SERVICES DEPARTMENT[441]

Disability services management, amendments to ch 25 Notice **ARC 6407C** 7/13/22
Emergency food assistance program—five-year review of rules, amendments to ch 66
Notice **ARC 6410C** 7/13/22
Providers of medical and remedial care—service documentation, 79.3(2)“c”(3) Notice **ARC 6419C** 7/27/22
Debts due from transfers of assets—five-year review of rules, amendments to ch 89
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Medicare drug subsidy—five-year review of rules, 91.1, 91.2(2)“a,” 91.3(2)“a,” 91.6(2),
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Child care centers—staff requirements, combining age groups, 109.8, 109.11(2) Notice **ARC 6406C** 7/13/22
Child care assistance eligibility—disability of a parent in a two-parent household,
170.2(2)“b” Notice **ARC 6430C** 7/27/22

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Food assistance program—change of name to supplemental nutrition assistance program
(SNAP); fraud control; debt recovery, amend chs 22, 72, 90; rescind ch 75 Notice **ARC 6412C** 7/13/22

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Travel insurance, amendments to ch 10 Notice **ARC 6402C** 7/13/22
Five-year review of rules, 35.21, 35.40, 40.12(4), 55.20(7), 58.3(2), 58.16(3), 71.14(9),
101.1, 101.8(12), 101.9, 102.3 Notice **ARC 6408C** 7/13/22

MANAGEMENT DEPARTMENT[541]

Suspension and reinstatement of state funds, ch 16 Notice **ARC 6428C** 7/27/22

PHARMACY BOARD[657]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Remote delegation of functions—security, supervision, documentation, patient counseling,
3.5, 3.21, 6.14 Filed **ARC 6416C** 7/27/22
Pharmacy license; nonresident pharmacy practice, 8.35, 19.1 to 19.3 Filed **ARC 6417C** 7/27/22
Temporary designation of controlled substances, 10.39(5) Notice **ARC 6425C** 7/27/22
Precursor substances, 12.1(1) Filed **ARC 6418C** 7/27/22
Precursor substance permits—five-year review of rules, 12.7 Notice **ARC 6424C** 7/27/22
Records—five-year review of rules, 14.1, 14.3, 14.6, 14.13(2), 14.14 Notice **ARC 6423C** 7/27/22
Care facility immunization programs—notification, 23.14(3) Notice **ARC 6421C** 7/27/22
Outsourcing facilities—inspections, change of ownership, fees, 41.3 Notice **ARC 6422C** 7/27/22

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Behavior analysts, assistant behavior analysts—fees, 5.3(3) Notice **ARC 6401C** 7/13/22
Licensure of massage therapists, ch 131 Filed **ARC 6415C** 7/13/22

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

PUBLIC HEALTH DEPARTMENT[641]

Center for congenital and inherited disorders, 4.1(1), 4.2, 4.3, 4.11 to 4.14 Notice **ARC 6432C** 7/27/22
Water treatment systems, rescind ch 14 Notice **ARC 6420C** 7/27/22

REVENUE DEPARTMENT[701]

Sales, use, and excise tax, amend chs 4, 27, 34, 67 to 70, 81 to 86, 91, 97, 103, 107, 109, 120, 122, 150, 215, 223, 226, 230; adopt chs 210, 212, 216; rescind chs 16, 108, 241
Notice **ARC 6400C** 7/13/22
 Permits; filing returns; payments of sales and use taxes, rescind chs 12, 13, 28, 29, 30; amend chs 42, 52, 67, 81, 97, 103, 215; adopt chs 201, 202, 258
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 Application of two-tier assessment limitation, 71.29 Notice **ARC 6429C** 7/27/22

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Proposed constitutional amendment—right to keep and bear arms, 21.200(4)
Amended Notice **ARC 6414C** 7/13/22
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 Fees, amendments to chs 30, 40 Notice **ARC 6427C** 7/27/22

TRANSPORTATION DEPARTMENT[761]

Primary highway access control, chs 112, 150 Notice **ARC 6434C** 7/27/22
 Vehicles transporting overweight loads of fluid milk products—annual permit, amendments to ch 511 Filed **ARC 6405C** 7/13/22

VETERINARY MEDICINE BOARD[811]

Veterinarian/client/patient relationships, 1.4, 12.1
Notice **ARC 6403C**, also Filed Emergency **ARC 6397C** 7/13/22

ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

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

Senator Waylon Brown
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 Osage, Iowa 50461

Representative Mike Boussetot
 Ankeny, Iowa
 House District 37

Senator Julian Garrett
 P.O. Box 493
 Indianola, Iowa 50125

Representative Megan Jones
 4470 Highway 71
 Sioux Rapids, Iowa 50585

Senator Jesse Green
 2344 360th Street
 Harcourt, Iowa 50544

Representative Amy Nielsen
 North Liberty, Iowa

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

Representative Rick Olson
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AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Renewable fuel infrastructure program, 13.1, 13.2(4), 14.2, 16.1 to 16.5
IAB 7/27/22 **ARC 6426C**

Second Floor Conference Room
Wallace State Office Bldg.
Des Moines, Iowa

August 24, 2022
11 a.m.

Marketing, ch 52
IAB 7/27/22 **ARC 6433C**

Second Floor Conference Room
Wallace State Office Bldg.
Des Moines, Iowa

August 24, 2022
1 p.m.

INSURANCE DIVISION[191]

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

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

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

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

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

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

PROFESSIONAL LICENSURE DIVISION[645]

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

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

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

PUBLIC EMPLOYMENT RELATIONS BOARD[621]

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

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

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

REVENUE DEPARTMENT[701]

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

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

August 11, 2022
9 to 10 a.m.

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

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

August 11, 2022
10 to 11 a.m.

REVENUE DEPARTMENT[701](cont'd)

Application of two-tier
assessment limitation, 71.29
IAB 7/27/22 **ARC 6429C**

Via video/conference call
Contact Nick Behlke
Email: nick.behlke@iowa.gov

August 16, 2022
1 to 2 p.m.
(If requested)

SECRETARY OF STATE[721]

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

Room 22
Iowa Capitol Bldg.
Des Moines, Iowa

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

TRANSPORTATION DEPARTMENT[761]

Primary highway access control,
chs 112, 150
IAB 7/27/22 **ARC 6434C**

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

August 18, 2022
10 a.m.
(If requested)

The following list will be updated as changes occur.

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

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

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

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ARC 6426C**AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]****Notice of Intended Action****Proposing rule making related to the renewable fuel infrastructure program and providing an opportunity for public comment**

The Agriculture and Land Stewardship Department hereby proposes to amend Chapter 13, “Renewable Fuel Infrastructure Board—Organization,” Chapter 14, “Renewable Fuel Infrastructure Program for Retail Motor Fuel Sites,” and Chapter 16, “Renewable Fuel Infrastructure Program Administration,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in 2022 Iowa Acts, House File 2128.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 159A and 2022 Iowa Acts, House File 2128.

Purpose and Summary

The proposed amendments make several changes to the Renewable Fuel Infrastructure Program to implement 2022 Iowa Acts, House File 2128. Specifically, the proposed rule making:

- Adds definitions for “special status,” “tier I site,” “tier II site,” and “tier III site.”
- Updates allowable purchases to E-85 and B-20 compatible infrastructure.
- Removes the option of a three-year cost-share agreement.
- Provides for prioritization of special status applicants and tier I through tier III sites, including updated cost-share rates.
- Makes other conforming changes to reflect requirements of House File 2128.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 21—Chapter 8.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on August 31, 2022. Comments should be directed to:

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

Colin Tadlock
 Iowa Department of Agriculture and Land Stewardship
 502 East 9th Street
 Des Moines, Iowa 50319
 Phone: 515.518.7609
 Email: colin.tadlock@iowaagriculture.gov

Public Hearing

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

August 24, 2022
 11 a.m.

Second Floor Conference Room
 Wallace State Office Building
 Des Moines, Iowa

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

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rule 21—13.1(159A) as follows:

21—13.1(159A) Definitions. As used in these rules, unless the context otherwise requires, the definitions in Iowa Code section 159A.11 shall apply to this chapter and to 21—Chapters 14, 15, and 16. The following definitions shall also apply:

“*Agreement*” means the cost-share agreement executed by the department after approval of the grant by the board.

“*Applicant*” means a person, as defined in this rule, who owns or operates a site.

“*Biodiesel*,” for the purpose of this rule, must be at least B99.

“*Biodiesel blended fuel*,” as defined in Iowa Code section 214A.1, means a blend of biodiesel with petroleum-based diesel fuel which meets the standards, including separately the standard for its biodiesel component. For the purpose of these rules, biodiesel blended fuel must contain at least 2 percent biodiesel at a terminal site and at least \pm 5 percent at a retail site.

“*Biofuel*” means ethanol or biodiesel as defined in Iowa Code section 214A.1.

“*Blender pump*,” for the purpose of these rules, means blending biofuel. When blending ethanol, the pump must have the capacity to dispense E-15 and E-85 gasoline at all times. When blending biodiesel, the pump must have the capacity to dispense biodiesel blended fuel classified as B-5 or higher at all times.

“*Board*” means the renewable fuel infrastructure board established by Iowa Code section 159A.13.

“*Checklist*” or “*IDNR checklist*” means the most recent version of the Underground Storage Tank System Checklist for Equipment Compatibility with E-Blend Fuels (greater than 10 percent by volume) issued by the Iowa department of natural resources.

“*Grant*” or “*cost-share grant*” means moneys awarded by the board on a cost-share basis from the renewable fuel infrastructure fund created by Iowa Code chapter 15G to help pay for a project.

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

“*Person*” means an individual, corporation, limited liability company, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity as defined in Iowa Code section 4.1(20).

“*Project*” means the installation of equipment for motor fuel storage, dispensing and distribution of E-15 or ~~E-85~~ higher gasoline, biodiesel or biodiesel ~~blend~~ blended fuel classified as B-5 or higher.

“*Rack*” means a metered motor fuel, special fuel or renewable fuel loading facility with the capacity to pump fuel at a rate of at least 100 gallons per minute (100 gpm); whether from an overhead, lateral, or underneath position, into a transportation vessel for further delivery.

“*Renewable fuel,*” as defined in Iowa Code section 214A.1, means a combustible liquid derived from grain starch, oilseed, animal fat, or other biomass; or produced from a biogas source, including any nonfossilized decaying organic matter which is capable of powering machinery, including but not limited to an engine or power plant. Renewable fuel includes but is not limited to biofuel, ethanol blended gasoline, or biodiesel blended fuel meeting the standards provided in Iowa Code section 214A.2.

“*Retail*” means offered for sale to the public for final consumption.

“*Retail motor fuel site*” means a site at which motor fuel is offered for sale to the public for final consumption. ~~A retail motor fuel site may include a tank vehicle or transport.~~

“*Special status*” means a retail motor fuel site that does not comply with the E-15 access standard under Iowa Code section 214A.32 as enacted by 2022 Iowa Acts, House File 2128, section 2, and is ineligible to be issued an E-15 incompatible infrastructure class 2 waiver order.

“*Tank vehicle*” means a motor vehicle designed to transport liquid or gaseous materials within a tank having a rated capacity of 1,001 or more gallons either permanently or temporarily attached to the vehicle or chassis.

“*Tier I site*” means a retail motor fuel site as described in Iowa Code section 159A.14(4B) “*b*” as enacted by 2022 Iowa Acts, House File 2128, section 93.

“*Tier II site*” means a retail motor fuel site as described in Iowa Code section 159A.14(4B) “*c*” as enacted by 2022 Iowa Acts, House File 2128, section 93.

“*Tier III site*” means a retail motor fuel site as described in Iowa Code section 159A.14(4B) “*d*” as enacted by 2022 Iowa Acts, House File 2128, section 93.

ITEM 2. Amend subrule 13.2(4) as follows:

13.2(4) Meetings. Board meetings will generally be held ~~by telephone or~~ at the department’s offices, electronically, or by telephone. All meetings shall comply with Iowa Code chapter 21.

ITEM 3. Amend rule 21—14.2(159A) as follows:

21—14.2(159A) Eligible applicants. To be eligible to receive a retail motor fuel site infrastructure grant, an applicant shall:

14.2(1) and 14.2(2) No change.

14.2(3) Meet the following eligibility requirements established by the board:

a. The fuel storage and dispensing infrastructure may include either an aboveground or belowground storage tank and ancillary equipment.

~~*b.* Rescind IAB 6/8/16, effective 7/13/16.~~

~~*e. b.*~~ *b.* The storage tank must, however, be used exclusively for retail delivery to the final consumer.

~~*c.*~~ *c.* If a tank has multiple compartments, at least one of the compartments must be used exclusively for the storage and dispensing of ethanol blended gasoline ~~at or between~~ classified as E-15 and E-85 or higher, biodiesel or biodiesel blended fuel classified as B-5 or higher at retail. The compartment used exclusively for the storage of ethanol blended gasoline ~~at or between~~ E-15 and E-85 or higher, biodiesel or biodiesel blended fuel is considered the tank for purposes of this program.

~~*e. d.*~~ *d.* The tank and ancillary equipment must be approved for ethanol blended gasoline ~~at or between E-15 and~~ classified as E-85 or higher, biodiesel or biodiesel blended fuel classified as B-20 or higher use by either the Iowa department of natural resources or the state fire marshal, as evidenced by the most recent IDNR checklist.

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

~~f. e.~~ The dispenser and dispenser components must be listed by an independent testing laboratory, approved by the manufacturer or approved by the state fire marshal as compatible with ethanol blended gasoline ~~at or between E-15 and~~ classified as E-85 or higher. An Iowa-licensed installer has been identified to perform the installation.

~~g. f.~~ Conversion kits. If a UL-listed E-85 dispenser conversion kit is used, it must be approved by the state fire marshal ~~to be eligible for the E-85 grant~~.

ITEM 4. Rescind rule **21—16.1(159A)**.

ITEM 5. Renumber rules **21—16.2(159A)** to **21—16.5(159A)** as **21—16.1(159A)** to **21—16.4(159A)**.

ITEM 6. Amend renumbered rules 21—16.1(159A) to 21—16.4(159A) as follows:

21—16.1(159A) Form of award available; award amount.

16.1(1) Form of award. Eligible applicants may apply for financial incentives on a cost-share basis. Funding shall be available in the form of a grant.

16.1(2) Timing of application. A grant may be awarded for an eligible project not yet commenced. However, a grant for an initial application may not be ~~awarded~~ submitted more than one year after the project is put in service.

16.1(3) Amount of award.

a. Retail award site.

~~(1) Three year cost share agreement for a retail site. The maximum award amount is 50 percent of the actual cost of making the improvements or \$30,000, whichever is less.~~

~~(2) (1) Five-year cost-share agreement for a retail site. The~~

1. For a tier I site, the maximum award amount is 90 percent of the actual cost of making the improvement or \$63,900, whichever is less.

2. For a tier II site, the maximum award amount is 75 percent of the actual cost of making the improvement or \$53,250, whichever is less.

3. For a tier III site, the maximum award amount is 70 percent of the actual cost of making the improvements or \$50,000, whichever is less.

~~(3) Supplemental financial incentives. A person may be granted supplemental financial incentives as an amendment to the cost share agreement.~~

~~1. Supplemental award for Underwriters Laboratories upgrade. The purpose of an award for Underwriters Laboratories (UL) is to upgrade to UL certified dispensers, blender pumps and dispensing infrastructure, UL approved conversion kits and approved and insurable installation projects. The maximum amount available as a supplemental financial incentive is 75 percent of the actual cost of making the improvements or \$30,000, whichever is less. The dispenser can be listed by an independent certified testing laboratory or Underwriters Laboratories (UL) as compatible with ethanol blended gasoline classified as E-9 or higher.~~

~~2. Supplemental award for additional tank and associated infrastructure. A person may request a supplemental financial incentive for tank and associated infrastructure, as an amendment to the subsequent cost share agreement(s). The purpose of an award for an additional tank(s) and associated infrastructure is to accelerate the installation of an additional tank(s) and associated infrastructure at an additional retail motor fuel site after an initial grant award is provided. The maximum award amount available as a supplemental financial incentive is \$6,000 per supplemental site. The person is limited to four supplemental financial incentive awards within the 12-month period following the completion of the initial retail motor fuel site project.~~

(2) Supplemental award for additional tank and associated infrastructure. A person may request a supplemental financial incentive for a tank and associated infrastructure, as an amendment to the subsequent cost-share agreement(s). The purpose of an award for an additional tank(s) and associated infrastructure is to accelerate the installation of an additional tank(s) and associated infrastructure at an additional retail motor fuel site after an initial grant award is provided. The maximum award amount available as a supplemental financial incentive is \$6,000 per supplemental site. The person is limited to

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

four supplemental financial incentive awards within the 12-month period following the completion of the initial retail motor fuel site project.

b. No change.

~~*c.* Tank vehicle. Rescinded IAB 6/8/16, effective 7/13/16.~~

16.1(4) and **16.1(5)** No change.

16.1(6) *Multiple awards for multiple fuel types.*

a. No change.

b. *At multiple fuel sites.* A person may receive multiple grants as described in paragraph ~~16.2(6)“a”~~ 16.1(6)“a” for more than one motor fuel site. When considering multiple grants for multiple fuel sites, the board will make awards fairly and properly among applicants and geographic areas.

16.1(7) *Exhaustion of funds.* In the event funding is exhausted ~~at the end of the fiscal year,~~ the board ~~shall~~ may approve remaining applications based on criteria implemented by the board.

21—16.2(159A) Application process.

16.2(1) No change.

16.2(2) *Contents of application.*

a. Statutory requirements. An application shall include the information required in Iowa Code ~~section 15G.203~~ chapter 159A.

b. Other information required by the board:

(1) Assurance that the project will be for the purpose of installing, replacing, or converting equipment for the storage or dispensing of the renewable fuel under consideration.

(2) Assurance that all equipment funded by the grant is ~~designed~~ E-85 or B-20 compatible and will be used ~~exclusively~~ to store or dispense E-15 ~~or E-85~~ or higher gasoline, biodiesel or biodiesel blended fuel classified as B-5 or higher, respectively, for the period specified in the agreement.

(3) An IDNR checklist indicating the current status of the site.

(4) Assurance of compliance with any and all federal requirements for financial responsibility.

(5) Assurance of compliance with any and all state and federal laws and regulations.

(6) A cost proposal from an Iowa-licensed underground storage tank installer (for underground storage projects) and a qualified aboveground storage tank installer (for aboveground storage projects).

~~(7) Documentation of initiation of the process of applying to an independent laboratory and the manufacturer’s written statement that the dispenser is “not incompatible.”~~

21—16.3(159A) Review process.

16.3(1) ~~The underground storage tank fund board has chosen not to review the applications.~~ The renewable fuel infrastructure board will review an application for final approval or disapproval. The renewable fuel infrastructure board shall determine the amount of financial incentives to be awarded to an applicant.

16.3(2) Completed applications, including supporting documentation of meeting eligibility requirements, will be reviewed on a first-come, first-served basis. The board shall rank applications with priority given to projects in the following order:

a. A retail motor fuel site that is assigned special status.

b. A retail motor fuel site that is a tier I site.

c. A retail motor fuel site that is a tier II site.

d. A retail motor fuel site that is a tier III site.

16.3(3) If the amount of funding requests exceeds available funds, the board shall evaluate applications based upon criteria that include, but are not limited to, the following:

a. Submittal of a completed application, including supporting documentation.

b. Priority status.

~~*c.*~~ *c.* Location factors such as demographics, proximity to major transportation corridors, and proximity to existing renewable fuel retail and storage facilities.

~~*e.*~~ *d.* Projected annual sales volume.

~~*d.*~~ *e.* Other sources of funding.

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

e. f. Previous grants awarded.

21—16.4(159A) Contract administration.

16.4(1) No change.

16.4(2) *Contract required.* The board shall direct the department to prepare a cost-share agreement which shall include terms and conditions of the grant established by the board. The agreement shall:

a. to *d.* No change.

e. Recite the penalty for the storage or dispensing of motor fuel other than the type of renewable fuel for which the grant was awarded.

(1) Awards for projects under construction or not yet started. The ~~three~~ or five-year obligation to continue dispensing renewable fuel begins on the date the project is completed.

(2) Awards for projects already completed. The ~~three~~ or five-year obligation to continue dispensing renewable fuel begins on the date the department issues the first disbursement of grant funds, not on the date of project completion.

f. Be amended to include a supplemental financial incentive, if a supplemental financial incentive is awarded by the board.

16.4(3) *Disbursement of funds.* Beginning January 1, 2023, the department shall only reimburse an applicant for qualifying expenditures that comply with Iowa Code sections 455G.32 and 455G.33 as enacted by 2022 Iowa Acts, House File 2128, sections 29 and 30, unless a grant was awarded to the applicant with moneys appropriated in the 2022 fiscal year budget or prior.

~~16.4(3)~~ **16.4(4) *Repayment penalty for nonexclusive renewable fuel use.*** In the absence of a waiver from the board, the department may impose a 25 percent penalty due to a grant recipient's use of infrastructure equipment for which a grant was awarded, for the storage or dispensing, within the time frame stated in the agreement, of motor fuel other than the type of renewable fuel for which the grant was awarded.

~~16.4(4)~~ **16.4(5) *Repayment or board waiver.*** A grant recipient may not use the infrastructure to store and dispense motor fuel other than the type approved by the board, unless one of the following applies: (1) the grantee is granted a waiver by the board, or (2) the grantee pays back the moneys awarded including a 25 percent penalty.

~~16.4(5)~~ **16.4(6) *Waiver criteria.*** The board may waive repayment of grant funds plus the 25 percent penalty. A grant recipient seeking a waiver during the time period in which a cost-share agreement is in effect shall submit a written waiver request to the board. The board will consider waiver requests under the following circumstances:

a. Permanent waiver.

(1) No change.

(2) Waiver due to demonstration of financial hardship (repayment on a sliding scale and no 25 percent penalty). A grant recipient may seek a permanent waiver of exclusive use of the approved renewable fuel during the time period in which a cost-share agreement is in effect due to financial hardship. The grant recipient must demonstrate that continuing to dispense the renewable fuel at a project site will cause a financial hardship. A request for waiver due to financial hardship shall include documentation to show a "good faith" effort to market the fuel, specifically the most recent six-month history of gallons of approved renewable fuel sold by month, marketing/advertising efforts, retail price comparison of E-15 or E-85 to E-10 (or regular gasoline) or of biodiesel to regular diesel. If a waiver is granted, the 25 percent penalty will not be assessed, but the grant funds shall be repaid as follows: at 100 percent for months one through ten of a cost-share agreement or 2 percent of the grant amount for each month remaining on the cost-share agreement after month ten.

1. ~~Three-year cost-share agreement: Months 1 through 11 of the cost-share agreement, 100 percent of grant amount. Months 12 through 36 of cost-share agreement, 4 percent of grant amount for each month remaining on the cost-share agreement.~~

2. ~~Five-year cost-share agreement: Months 1 through 10 of the cost-share agreement, 100 percent of grant amount. Months 11 through 60 of the cost-share agreement, 2 percent of grant amount for each month remaining on the cost-share agreement.~~

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

b. Temporary waiver (temporary suspension of repayment and 25 percent penalty). A grant recipient may request a temporary suspension of the obligation to use only the approved renewable fuel and a temporary waiver of the repayment plus penalty requirement. A request for a temporary waiver, or an extension of a temporary waiver, will only be considered by the board if the recipient can document to the board's satisfaction that market forces are not allowing for advantageous sales of the approved renewable fuel. A grant recipient shall submit documentation of the previous six-month sales history and marketing attempts to substantiate the grant recipient's request for a temporary waiver. The following conditions apply to requests for a temporary waiver:

- (1) A temporary waiver will not be granted during the first six months of a cost-share agreement.
- (2) A temporary waiver will not shorten the grant recipient's obligation to use the infrastructure to store and dispense the approved renewable fuel for a minimum of ~~three years~~ or five years. If the board approves a temporary waiver, the duration of the cost-share agreement will be extended by the length of the approved waiver period.
- (3) A grant recipient may request a temporary waiver of up to six months. The board may approve one or more six-month waivers, provided the total cumulative time period allowed for temporary waivers shall not exceed two years.
- (4) If a state executive order suspending the Iowa Renewable Fuel Standard (RFS) schedule is issued, the board may decide to grant a temporary waiver to all grant recipients. The board will establish the duration of the waiver and provide written notice to all grant recipients of the board's action. When the board determines that a temporary waiver is necessary due to suspension of the Iowa RFS schedule, the ~~three-year~~ or five-year duration of the cost-share agreement will not be extended by the length of the temporary waiver.

ARC 6433C**AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]****Notice of Intended Action****Proposing rule making related to choose Iowa promotional program and value-added agricultural grant program and providing an opportunity for public comment**

The Agriculture and Land Stewardship Department hereby proposes to adopt new Chapter 52, "Marketing," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 159.29 as enacted by 2022 Iowa Acts, House File 2581, and 2022 Iowa Acts, House File 2560.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 159.29 as enacted by 2022 Iowa Acts, House File 2581, and 2022 Iowa Acts, House File 2560.

Purpose and Summary

This proposed rule making establishes rules for the Choose Iowa Promotional Program. The rules establish qualifications for various types of products grown and raised in Iowa, provide application procedures for participation in the program, establish fees and membership classifications, and set standards for use of the Choose Iowa logo and departmental procedure for enforcement of proper standards.

This proposed rule making also establishes processes and procedures for the Value-Added Agriculture Grant Program. The rules provide for application and application review procedures and establish eligibility for applying, ineligible uses of grant funds, and scoring criteria used to evaluate applications.

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

Fiscal Impact

The Department will collect fee revenue from program participants. At this time, the Department does not have a good estimate on how much revenue this may generate. All fee revenue is deposited into the Choose Iowa Fund (Iowa Code section 159.31A as enacted by 2022 Iowa Acts, House File 2581, section 7) and will be used to further support the program.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 21—Chapter 8.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on August 26, 2022. Comments should be directed to:

Colin Tadlock
Iowa Department of Agriculture and Land Stewardship
Wallace State Office Building
502 East 9th Street
Des Moines, Iowa 50319
Phone: 515.281.7609
Email: colin.tadlock@iowaagriculture.gov

Public Hearing

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

August 24, 2022
1 p.m.

Second Floor Conference Room
Wallace State Office Building
Des Moines, Iowa

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

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

Adopt the following new 21—Chapter 52:

CHAPTER 52
MARKETING

CHOOSE IOWA PROMOTIONAL PROGRAM

21—52.1(159) Definitions.

“*Department*” means the Iowa department of agriculture and land stewardship.

“*Food item*” means any of the following:

1. A perishable item derived from an agricultural commodity, or processed from an agricultural commodity, that is fit for human consumption.

2. Honey produced from bees in a managed beehive.

“*Iowa farm*” means land in this state used to produce an agricultural commodity.

“*Member*” means a person who has applied for and been accepted to participate in the choose Iowa promotional program.

“*Process*” means to prepare a food item in a manner that allows it to be fit for human consumption.

“*Processor*” is a membership classification that means a person preparing a food item in a manner that allows it to be fit for human consumption.

“*Producer*” is a membership classification that means a person growing, raising, or harvesting agricultural commodities in the state of Iowa.

“*Retailer*” is a membership classification that means a person engaged in the business of selling agricultural products to consumers, including food service and restaurants.

“*Wholesaler*” is a membership classification that means a person engaged in the business of selling agricultural products to retailers.

21—52.2(159) Product qualification.

52.2(1) Authority of determination. The department has the sole authority in determining the eligibility of a product for participation in the program.

52.2(2) General product qualifications. Except as specified in this chapter, products must meet or exceed the following criteria:

a. Fresh produce and commodities bearing the choose Iowa logo shall be 100 percent grown or raised in Iowa.

b. Meat and meat products bearing the choose Iowa logo shall be derived from animals born, raised, and finished in Iowa. Slaughter and processing must take place in a state- or federally inspected plant within the state of Iowa.

c. Dairy products bearing the choose Iowa logo shall be derived from animals in Iowa. Processing must take place in a state-inspected plant within the state of Iowa.

d. Eggs bearing the choose Iowa logo shall be derived from animals in Iowa.

e. Apicultural products produced by honey bees, including honey, wax, pollen, and propolis, bearing the choose Iowa logo shall be 100 percent of Iowa origin. Processed honey shall be 80 percent of Iowa origin.

f. Beer bearing the choose Iowa logo shall be brewed in Iowa and contain at least one Iowa agricultural product, such as Iowa malt, hops, or soluble remnant, excluding water.

g. Wine bearing the choose Iowa logo shall contain a minimum of 95 percent Iowa grapes.

h. Spirits bearing the choose Iowa logo shall be distilled in Iowa and contain at least one Iowa agricultural product, excluding water.

52.2(3) Exceptions. The department has the authority to establish product qualification requirements specific to individual products and commodities by written order.

21—52.3(159) Application for membership.

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

52.3(1) Application requirement. Persons interested in becoming a member in the choose Iowa promotional program shall do so by making application to the department. New applications may be submitted at any time throughout the year.

52.3(2) Application review and compliance verification. The department, upon receipt of an application, will verify the applicant's compliance with this chapter and approve or deny the application. The department will notify the applicant in writing of the approval or denial.

52.3(3) Duration of membership. Membership is on an annual basis, coinciding with the calendar year beginning January 1 and ending December 31.

52.3(4) Membership revocation and termination. Program membership may be revoked if the member company:

- a. No longer meets the qualifications for membership;
- b. Violates any applicable statute or rule;
- c. Violates any agreement between the department and the member company;
- d. Acts in a manner that may damage the reputation of the program.

21—52.4(159) Fees.

52.4(1) Membership fees. Membership fees will be listed in the membership application and will be charged at the following rates:

Producer	\$100
Processor	\$100
Wholesaler/distributor	\$100
Retailer	\$100
Supporting organization	\$100

52.4(2) New member fees. New member agreements issued during the program year will be assessed at 100 percent of the annual fee regardless of when an application for membership is submitted.

21—52.5(159) Approval for use of logo. Members who wish to use the choose Iowa logo on packaging, labels, flyers, promotional materials, or any other materials that will be viewed by the public must submit a proof of text and design to the department for approval. Requests for approval must be submitted to the department not less than five working days prior to the proposed date of use. Written approval from the department for logo use must be issued prior to use of the logo.

21—52.6(159) Self-certification. All members shall self-certify that all products marked with the choose Iowa logo meet the qualification criteria as set forth in this chapter. Self-certification is subject to verification through the application and compliance processes.

21—52.7(159) Compliance.

52.7(1) Authority of department. The department may enter upon the premises of any member to examine any records or materials necessary to ensure compliance with these rules.

52.7(2) Random compliance inspection. The department may annually perform random compliance inspections.

52.7(3) Samples. Upon request of the department, a member shall provide samples of the labels, packaging, merchandising, and promotional materials featuring the choose Iowa logo.

21—52.8(159) Violations. Any person found in violation of these rules is subject to termination of membership privileges.

21—52.9 to 52.19 Reserved.

This division is intended to implement Iowa Code section 159.29 as amended by 2022 Iowa Acts, House File 2581.

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

VALUE-ADDED AGRICULTURE GRANT PROGRAM

21—52.20(159) Definitions. For purposes of this division:

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

“*Applicant*” means a person applying for assistance under the program. This includes but is not limited to an individual, business, agricultural cooperative, nonprofit organization, or local government.

“*Department*” means the Iowa department of agriculture and land stewardship.

“*Grant*” means an award of assistance with the expectation that, with the fulfillment of the conditions, terms and obligations of the agreement with the department for the project, repayment of funds is not required.

“*Program*” means the value-added agriculture grant program established under this chapter.

“*Project*” means an activity or activities undertaken by the applicant to be carried out to meet the goals of the program.

21—52.21(159) Eligibility.

52.21(1) *Eligible applicants.* To be eligible for a grant under the program, an applicant shall meet all of the following requirements:

a. Be an individual, business, agricultural cooperative, nonprofit organization, or local government.

b. Be in good standing with the state of Iowa.

c. Currently reside or conduct business in Iowa.

52.21(2) *Eligible projects.* To be eligible for a grant under the program, a project shall:

a. Increase sales of Iowa agricultural products by increasing production capacity or expanding market access for value-added projects.

b. Not be in progress until a grant is awarded.

c. Be completed in 18 months or less.

d. Be conducted in Iowa.

52.21(3) *Ineligible expenses.* The following items are not eligible expenses under the program:

a. Equipment and infrastructure for meat processing;

b. Infrastructure for renewable fuels;

c. Expenses incurred prior to the awarding of a grant;

d. Start-up costs including but not limited to inventory, license fees, or working capital;

e. Advertising, public relations, or entertainment costs;

f. Employee benefits and wages;

g. Paying off existing debt, related collection costs, or legal costs;

h. Paying off existing fines, penalties, or settlements from failure to comply with any applicable law or regulations.

52.21(4) *Grant amount and terms.*

a. The maximum amount of financial assistance awarded to an eligible applicant under the program shall not exceed \$25,000.

b. An applicant must demonstrate the ability to provide matching support for the project on a one-to-one basis. The matching financial support shall be from private sources.

21—52.22(159) Application and review process.

52.22(1) The department will establish a uniform application process and make information about applying available on its website.

52.22(2) Applications will only be accepted during the times established by the department. Late submissions will not be accepted.

52.22(3) A scoring committee established by the department will review and evaluate applications based on the scoring criteria described in rule 21—52.23(159).

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

52.22(4) The department, after considering the recommendations made by the scoring committee, will determine which applications to fund and how much should be awarded to each applicant. The department has final decision-making authority on requests for financial assistance for the program.

21—52.23(159) Scoring criteria.

52.23(1) Application scoring. A scoring committee will be established by the department to evaluate applications on a scale of 0 to 100. Projects receiving a score below 70 will not be considered.

52.23(2) Scoring criteria. The department will use the following criteria to evaluate each application:

a. The extent to which the project addresses the goals of the program to increase the sale of Iowa agricultural products, increase market access, diversify markets, or increase processing capacity: 25 points.

b. The extent to which the project benefits Iowa including the potential to impact many farmers, both short-term and long-term impacts, and the possibility of creating jobs and investments: 20 points.

c. The ability of the applicant to demonstrate sound business management, financial aptitude, and stability: 15 points.

d. The sufficiency of the project's budget and financing structure: 15 points.

e. The sufficiency of the project's proposed work plan and timeline including a detailed description of the steps the applicant will take to complete the project as well as estimated dates: 15 points.

f. The extent to which measurable objectives can be determined that demonstrate the proposed project's benefit to the agriculture community: 10 points.

21—52.24(159) Disbursement of funds. The department will disburse funds for a project only after an agreement has been executed between the applicant and the department and all applicable conditions for disbursement have been met, including the submission of documentation pertaining to the eligible expenditures. Disbursement of funds under the agreement will be on a reimbursement basis for expenses incurred by the applicant.

This division is intended to implement 2022 Iowa Acts, House File 2560.

ARC 6419C**HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action****Proposing rule making related to service documentation
and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 249A.4.

Purpose and Summary

The Department is proposing to amend the documentation requirements for narrative service documentation for each service encounter and each shift for 24-hour services. This proposed rule making removes this administrative burden related to delivering services.

These amendments will clarify that Medicaid providers must include all records and documentation to substantiate the services provided to the member and all information necessary to allow accurate

HUMAN SERVICES DEPARTMENT[441](cont'd)

adjudication of the claim. In addition, documentation requirements must meet the professional standards pertaining to the service provided.

This rule making will positively impact direct service providers by removing the requirement for narrative service documentation for each service encounter or shift and replacing it with the requirement to provide a narrative only when any incident or illness or unusual or atypical event occurs during the service encounter.

This rule making will provide immediate relief to providers struggling to recruit and retain direct care staff. Providers have requested the amendments in response to the direct care workforce crisis.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on August 16, 2022. Comments should be directed to:

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

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend subparagraph **79.3(2)“c”(3)** as follows:

(3) Service documentation. The record for each service provided shall include information necessary to substantiate that the service was provided. ~~Service documentation shall include narrative documentation and may also include documentation in checkbox format.~~ Unless otherwise indicated

HUMAN SERVICES DEPARTMENT[441](cont'd)

below, the provider may document the services in any format so long as the documentation adequately substantiates the medical necessity and that the services were rendered. The service record shall include the following:

1. to 3. No change.
4. The location where the service was provided if otherwise required on the billing form or in 441—paragraph 77.30(5)“c” or “d,”441—paragraph 77.33(6)“d,”441—paragraph 77.34(5)“d,”441—paragraph 77.37(15)“d,”441—paragraph 77.39(13)“e,”441—paragraph 77.39(14)“d,” or 441—paragraph 77.46(5)“i,” or 441—subparagraph 78.9(10)“a”(1).
5. Medication administration record (MAR). The name, dosage, and route of administration of any medication dispensed or administered as part of the service.
6. Mileage log. The name, date, purpose of the trip, and total miles for transportation provided as part of the service.
7. Narrative description of any incidents or illnesses or unusual or atypical occurrences that occur during service provision.
- ~~6.~~ 8. Any supplies dispensed as part of the service.
- ~~7.~~ 9. The first and last name and professional credentials, if any, of the person providing the service.
- ~~8.~~ 10. The signature of the person providing the service, or the initials of the person providing the service if a signature log indicates the person’s identity.
- ~~9.~~ 11. For 24-hour care, documentation for every shift of the services provided, ~~the member’s response to the services provided, and the person who provided the services.~~

ITEM 2. Amend paragraph **79.3(2)“d,”** introductory paragraph, as follows:

d. Basis for service requirements for specific services. The health care provider should include all records and documentation that substantiate the services provided to the member and all information necessary to allow accurate adjudication of the claim. Additionally, documentation requirements must meet the professional standards pertaining to the service provided. The medical record for the following services must include, but is not limited to, the items specified below (unless the listed item is not routinely received or created in connection with the particular service or activity and is not required to document the reason for performing the service or activity, its medical necessity, or the level of care associated with it). ~~These items will be specified on Form 470-4479, Documentation Checklist, when the Iowa Medicaid enterprise program integrity unit requests providers to submit records for review. (See paragraph 79.4(2)“b.”)~~

ARC 6430C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

**Proposing rule making related to child care assistance eligibility
and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 170, “Child Care Services,” Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 237A.13 as amended by 2022 Iowa Acts, House File 2252.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Purpose and Summary

These proposed amendments implement changes based on 2022 Iowa Acts, House File 2252, which removes language from Iowa Code section 237A.13 that previously required a medical incapacity to be temporary in order for a parent to be eligible for child care assistance (CCA). Removal of this requirement will allow a family with one permanently disabled parent to be CCA-eligible based upon the needs of the parent who is not disabled.

Fiscal Impact

A fiscal impact of greater than \$100,000, but less than \$500,000, is expected over the next five years as a result of this rule making. This rule making is expected to increase overall demand for child care services as eligibility requirements are revised for CCA for disabled parents. The additional costs will be absorbed in the CCA budget with the balance of the federal Child Care Development Fund.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on August 16, 2022. Comments should be directed to:

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

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 1. Amend paragraph 170.2(2)“b,” introductory paragraph, as follows:

b. Need for service. Except for assistance provided under subparagraph 170.2(2)“b”(3), assistance shall be provided to a two-parent family only during the parents’ coinciding hours of participation in training, employment, or job search unless one parent is permanently disabled as described in subparagraph 170.2(2)“b”(4). Each parent in the household shall meet one or more of the following requirements:

ITEM 2. Amend subparagraph 170.2(2)“b”(4) as follows:

(4) The parent is absent from the home due to inpatient hospitalization or outpatient treatment because of physical or mental illness, or is present but due to medical incapacity is unable to care for the child or participate in work or training, as verified by a physician.

1. Eligibility under this paragraph is limited to parents who become temporarily medically incapacitated, or to instances of one parent in a two-parent household being permanently disabled, while eligible for child care assistance based on the need criteria in subparagraph 170.2(2)“b”(1) or 170.2(2)“b”(2).

2. Child care assistance shall continue to be available for up to 90 consecutive days after the parent becomes medically incapacitated. Assistance beyond 90 days may be approved by the service area manager or designee if extenuating circumstances are verified by a physician.

3. The number of units of service authorized shall be determined as follows:

- For a single-parent family ~~or for a two-parent family where both parents are incapacitated,~~ the number of units authorized for the period of incapacity shall not exceed the number of units authorized for the family before the onset of incapacity.

- For a two-parent family where ~~only~~ one parent is temporarily incapacitated, the units of service authorized shall be based on the need of the parent who is not incapacitated.

- For a two-parent family, if one of the parents has a permanent disability and is unable to care for the child or participate in work or training, the disabled parent does not need to meet another need for service requirement. The units of service authorized shall be based only on the need of the parent who is not disabled.

ARC 6428C

MANAGEMENT DEPARTMENT[541]

Notice of Intended Action

**Proposing rule making related to suspension and reinstatement of state funds
and providing an opportunity for public comment**

The Management Department hereby proposes to adopt new Chapter 16, “Suspension and Reinstatement of State Funds,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 8.6.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 27B.5 and 27B.6.

Purpose and Summary

This proposed rule making will establish procedures and guidelines to deny state funds to a local entity intentionally violating the provisions of Iowa Code chapter 27B and to reinstate eligibility to receive state funds when a local entity comes into compliance with Iowa Code chapter 27B. This rule making will establish the process by which the Department receives a final judicial determination that the local entity is out of compliance with Iowa Code chapter 27B and is ineligible to receive state funds and funds are denied. This rule making will also establish the process by which the Department receives the declaratory

MANAGEMENT DEPARTMENT[541](cont'd)

judgment that the local entity is in full compliance with Iowa Code chapter 27B and is eligible to receive state funds and state funds are reinstated.

Fiscal Impact

At this time, it is not possible to estimate the total fiscal impact of Iowa Code sections 27B.5 and 27B.6, and this rule making has no fiscal impact to the State beyond that of the Iowa Code sections it is intended to implement.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 541—1.3(8).

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on August 16, 2022. Comments should be directed to:

Joel Lunde
Iowa Department of Management
State Capitol, Room 13
1007 East Grand Avenue
Des Moines, Iowa 50319
Phone: 515.281.3322
Fax: 515.242.5897
Email: joel.lunde@iowa.gov

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Adopt the following **new** 541—Chapter 16:

CHAPTER 16
SUSPENSION AND REINSTATEMENT OF STATE FUNDS

541—16.1(27B) Denial of state funds.

MANAGEMENT DEPARTMENT[541](cont'd)

16.1(1) Definitions. For purposes of this chapter:

“*City*” means a municipal corporation but does not include a county, township, school district, or any special-purpose district or authority.

“*County*” means an administrative subdivision in the state governed by a locally elected board of supervisors and may be comprised of subdivisions, including cities, townships, school districts, or any special-purpose district or authority.

“*Declaratory judgment*” means a judgment issued by a district court declaring a local entity is in full compliance with Iowa Code chapter 27B.

“*Department*” means the Iowa department of management, pursuant to Iowa Code chapter 8.

“*Final judicial determination*” means a district court ruling on a civil action brought by the state attorney general’s office finding a local entity to have violated the provisions of Iowa Code chapter 27B.

“*Fiscal year*” means the time period beginning on July 1 and ending the following June 30, as defined in Iowa Code section 8.36.

“*Governing body*” means the mayor and city council of a city or the board of supervisors of a county.

“*Local entity*” means the governing body of a city or county and includes an officer or employee of a local entity or a division, department, or other body that is part of a local entity, including but not limited to a sheriff, police department, city attorney, or county attorney. “Local entity” includes local city and county boards and commissions in which membership on the board or commission is the result of an appointment by the city council or the county board of supervisors. “Local entity” does not include local city and county boards and commissions whose membership is determined by election or is specifically set forth by the Iowa Code. “Local entity” does not include multijurisdictional boards and commissions in which a city or county is one of multiple local government members.

“*State agency*” means any board, commission, department or other administrative office or unit of the executive branch of the state as defined by Iowa Code section 7E.4.

“*State funds*” means those funds held by the state that originate from revenues, fees or receipts collected by the state and distributed to local entities. Funds held by the state that are not defined as state funds include:

1. Federal funds (unless provided to the state and awarded as a grant by the state).
2. Funds paid out per gubernatorial or presidential emergency proclamation.
3. Any revenue collected and administered by the state on behalf of a local entity due to a locally imposed tax, fee or fine.
4. Any state funds for the provision of wearable body protective gear used for law enforcement purposes.
5. Payment for public protection, utilities, or goods and services.
6. Payment of settlements.
7. Setoffs as described by Iowa Code section 8A.504.

16.1(2) Denial of state funds. State funds shall be denied to a local entity pursuant to Iowa Code chapter 27B by all state agencies for each state fiscal year that begins after the date on which a final judicial determination is made in a civil action brought pursuant to Iowa Code section 27B.4(6).

a. The department will send written notification to a state agency to deny state funds. Payments will continue to be made to the local entity until the beginning of the state fiscal year that begins after the date on which a final judicial determination is made, at which time payments will be denied.

b. If a local entity receives state funds through a county, the department will notify the county so that any needed changes may be made to apportionment systems for property tax credits, exemptions and replacements.

c. A state agency will contact a federal granting agency in writing to determine how to administer federal funds when state match funds are denied. The state agency may be required to discontinue drawing federal funds or issue repayments as instructed by the federal granting agency.

d. Funds will continue to be denied until issuance of a declaratory judgment.

541—16.2(27B) Reinstatement of eligibility to receive state funds. Upon issuance of a declaratory judgment, the local entity’s eligibility to receive state funds is reinstated.

MANAGEMENT DEPARTMENT[541](cont'd)

16.2(1) The department will send written notification to a state agency to reinstate state funds. Payments will be reinstated to the local entity beginning on the first day of the month following the date on which the declaratory judgment is issued.

16.2(2) If the local entity receives state funds through the county, the department will notify the county so that any needed changes may be made to apportionment systems for property tax credits, exemptions and replacements.

16.2(3) A state agency will contact a federal partner in writing to determine how to reinstate a drawdown of federal funds when state match funds are reinstated.

These rules are intended to implement Iowa Code sections 27B.5 and 27B.6.

ARC 6425C

PHARMACY BOARD[657]

Notice of Intended Action

Proposing rule making related to controlled substances and providing an opportunity for public comment

The Board of Pharmacy hereby proposes to amend Chapter 10, "Controlled Substances," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 124.201.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 124.201.

Purpose and Summary

This proposed amendment temporarily places one substance (a new U.S. Food and Drug Administration (FDA)-approved medication to treat seizures) into Schedule V of the Iowa Controlled Substances Act in response to similar action taken by the federal Drug Enforcement Administration.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on August 16, 2022. Comments should be directed to:

PHARMACY BOARD[657](cont'd)

Sue Mears
Board of Pharmacy
400 S.W. 8th Street, Suite E
Des Moines, Iowa 50309
Email: sue.mears@iowa.gov

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Rescind subrule 10.39(5) and adopt the following new subrule in lieu thereof:

10.39(5) Amend Iowa Code section 124.212(5) by adding the following new paragraph:
g. Ganaxolone (3alpha-hydroxy-3beta-methyl-5alpha-pregnan-20-one).

ARC 6424C

PHARMACY BOARD[657]

Notice of Intended Action

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

The Board of Pharmacy hereby proposes to amend Chapter 12, “Precursor Substances,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 124B.11(3).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 124B.11.

Purpose and Summary

The proposed amendment is a result of an overall five-year review of rules as required by Iowa Code section 17A.7(2) and provides updated application processes and corrects a cross-reference.

Fiscal Impact

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

Jobs Impact

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

PHARMACY BOARD[657](cont'd)

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on August 16, 2022. Comments should be directed to:

Sue Mears
Board of Pharmacy
400 S.W. 8th Street, Suite E
Des Moines, Iowa 50309
Email: sue.mears@iowa.gov

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Amend rule 657—12.7(124B) as follows:

657—12.7(124B) Permits. Persons or entities in this state that purchase, transfer, or otherwise receive a precursor substance as defined in rule 657—12.1(124B) from a source outside the state shall obtain a permit from the board. No person or entity required to obtain a permit shall receive a precursor substance from a source outside the state until an application for permit is approved and the board has issued a permit certificate. Permits shall expire on the last day of the calendar year in which the permit is issued.

12.7(1) Applications. ~~Application forms may be obtained from and completed applications shall be submitted to the Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688. Permit renewal forms will be mailed to each current permit holder approximately 60 days before the expiration date of the permit. A permit holder who has not received a renewal form 45 days prior to expiration of a current permit is responsible for contacting the board to request an application for renewal. An applicant shall submit a completed application and nonrefundable fee pursuant to subrule 12.7(2).~~

~~a. Application shall be made on forms provided or approved by the board.~~ Each application shall include all requested information, unless the item is not applicable, in which case that fact shall be indicated.

~~b. No change.~~

12.7(2) Initial permit, renewal, and fees. The fee for an initial permit or permit renewal shall be paid at the time that the application for the permit or permit renewal is submitted for filing. Payment shall be made in the form of a personal, business, certified, or cashier’s check or money order made payable

PHARMACY BOARD[657](cont'd)

to the Iowa Board of Pharmacy when submitted with a written application or by acceptable debit or credit card when submitted with an online application. Payments made in the form of foreign currency or third-party endorsed checks will not be accepted.

a. and b. No change.

c. Delinquent permit. If a permit is not renewed before its expiration date, the permit is delinquent and the permit holder may not receive a precursor substance from a source outside the state until the delinquent permit is renewed. A delinquent-permit holder that continues activities for which a permit is required may be subject to disciplinary sanctions pursuant to ~~657—subrule 36.1(4)~~ rule 657—36.6(147,155A,272C).

12.7(3) to 12.7(5) No change.

ARC 6423C

PHARMACY BOARD[657]

Notice of Intended Action

**Proposing rule making related to records
and providing an opportunity for public comment**

The Board of Pharmacy hereby proposes to amend Chapter 14, “Public Information and Inspection of Records,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 17A.7(2) and 22.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 22.3.

Purpose and Summary

The proposed amendments are the result of an overall five-year review as required in Iowa Code section 17A.7(2). The amendments update the manner in which records are maintained by the Board and correct Iowa Code references.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on August 16, 2022. Comments should be directed to:

PHARMACY BOARD[657](cont'd)

Sue Mears
 Board of Pharmacy
 400 S.W. 8th Street, Suite E
 Des Moines, Iowa 50309
 Email: sue.mears@iowa.gov

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rule **657—14.1(22,124,155A)**, definitions of “Board” and “Custodian,” as follows:

“*Board*” means the Iowa board of pharmacy ~~examiners~~.

“*Custodian*” means the executive ~~secretary~~/director of the board.

ITEM 2. Amend rule 657—14.3(22,124,155A) as follows:

657—14.3(22,124,155A) Requests for access to records.

14.3(1) Location of record. A request for access to a record should be directed to Executive ~~Secretary~~/Director, Iowa Board of Pharmacy ~~Examiners~~, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688.

14.3(2) and 14.3(3) No change.

14.3(4) Response to requests.

a. Access to an open record shall be provided in a timely manner upon request. If the size or nature of the request for access to an open record requires time for processing, the custodian shall comply with the request as soon as feasible. Access to an open record may be delayed for one of the purposes authorized by Iowa Code section 22.8(4) or 22.10(4). The custodian shall promptly give notice to the requester of the reason for any delay in access to an open record and an estimate of the length of that delay and, upon request, shall promptly provide that notice to the requester in writing.

b. The custodian of a record may deny access to the record by members of the public only on the grounds that such a denial is warranted under Iowa Code section 22.8(4) or 22.10(4), or that it is a confidential record, or that its disclosure is prohibited by a court order. Access by members of the public to a confidential record is limited by law and, therefore, may generally be provided only in accordance with the provisions of rule 657—14.4(22,124,155A) and other applicable provisions of law.

14.3(5) and 14.3(6) No change.

14.3(7) Fees.

a. Copying and postage costs. Price schedules for published materials and for ~~photocopies~~ copies of records supplied by the board shall be ~~prominently posted in the board office~~ provided on the board’s website. Copies of records may be made by or for members of the public on board photocopy machines or from electronic storage systems at cost as determined by the custodian and ~~posted in on the board office~~ board’s website. When the mailing of copies of records is requested, the costs of such mailing may also be charged to the requester.

PHARMACY BOARD[657](cont'd)

b. Supervisory and retrieval fees. An hourly fee may be charged for board expenses in supervising the examination of and for the copying of requested records, or for the search and retrieval of such records, when the time required exceeds 15 minutes. The custodian shall ~~prominently post in the board office~~ provide on the board's website the hourly fees to be assessed. Hourly fees shall not be in excess of the compensation rate of a board employee who ordinarily would be appropriate and suitable to perform the function.

c. No change.

ITEM 3. Amend rule 657—14.6(22,124,155A) as follows:

657—14.6(22,124,155A) Procedure by which additions, dissents, or objections may be entered into certain records. Except as otherwise provided by law, a person may file a request with the custodian to review, and to have a written statement of additions, dissents, or objections entered into, a record containing personally identifiable information pertaining to that person. This does not authorize a person who is a subject of such a record to alter the original copy of that record or to expand the official record of any board proceeding. A requester shall send the request to review such a record or the written statement of additions, dissents, or objections to Executive ~~Secretary~~/Director, Iowa Board of Pharmacy Examiners, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688. A request to review such a record or the written statement of additions, dissents, or objections to the record shall be dated and signed by the requester and shall include the current address and telephone number of the requester or the requester's representative.

ITEM 4. Amend subrule 14.13(2) as follows:

14.13(2) Confidential records. The following records may be withheld from public inspection. Records are listed by category, according to the legal basis for withholding them from public inspection.

a. to c. No change.

d. Criminal history or prior misconduct of an applicant for licensure (Iowa Code section ~~147.21(1)~~ 155A.40(3));

e. No change.

f. Information relating to the results of an examination for licensure, other than final score, except that information about the results of an examination may be provided to the person who took the examination (Iowa Code section ~~147.21(3)~~ 147.21(2));

g. No change.

h. Minutes of closed meetings of the board (Iowa Code section ~~21.5(4)~~ 21.5(5) "b");

i. Records of closed-session board disciplinary hearings (Iowa Code sections ~~272C.6(1) and 21.5(4)~~ 21.5(5) "b");

j. No change.

k. Identifying details in final orders, decisions, and opinions to the extent required to prevent a clearly unwarranted invasion of personal privacy or trade secrets under Iowa Code section ~~17A.3(1) "d"~~ 17A.3(1) "e";

l. to n. No change.

ITEM 5. Amend rule 657—14.14(22,124,155A) as follows:

657—14.14(22,124,155A) Personally identifiable information. This rule describes the nature and extent of personally identifiable information which is collected, maintained, and retrieved by the board by personal identifier in record systems as defined in rule 657—14.1(22,124,155A). For each record system, this rule describes the legal authority for the collection of that information and the means of storage of that information. Indication that information in a record system is stored in or on more than one media format should not be interpreted to mean that all information is stored in all such formats. Some information comprising a record may be maintained in or on one type of media while other related information is maintained in or on another. The description also indicates whether the record system contains any confidential information, and includes the legal authority for confidentiality. The record systems maintained by the board are:

PHARMACY BOARD[657](cont'd)

14.14(1) *Records of board disciplinary hearings.* These records contain information about licensees, permit holders, and registrants who are the subject of a board disciplinary proceeding or other action. This information is collected by the board pursuant to the authority granted in Iowa Code chapters 17A, 124, 155A, and 272C and is stored electronically, in computer, and on paper. The information contained in “closed session” board hearing records is confidential in whole or in part pursuant to Iowa Code sections ~~21.5(4)~~ 21.5(5) and 272C.6(1).

14.14(2) *Complaint reports.* Complaint and investigative files maintained by the board for purposes of licensee discipline contain information about licensees, permit holders, registrants, and the persons that they serve. This information is collected by the board pursuant to the authority granted in Iowa Code chapters 124 and 155A and is stored electronically, in computer, and on paper. The information contained in these records is confidential in whole or in part pursuant to Iowa Code sections ~~22.7(18)~~ 22.7(5) and 272C.6(4).

14.14(3) *Continuing ~~pharmaceutical~~ pharmacy education records.* These records contain educational information about pharmacists licensed by the board. This information is collected pursuant to the authority granted in Iowa Code chapter 272C and is stored electronically, in computer, and on paper only.

14.14(4) *Controlled drug samples records.* These records contain information about controlled substance registrants who receive samples of controlled drugs from drug manufacturers. The records include the name, strength, and quantity of controlled drugs received by the registrant, and the identity of the manufacturer or distributor. This information is collected by the board pursuant to the authority granted in Iowa Code chapter 124 and is stored electronically, in computer, and on paper.

14.14(5) *Controlled substance registration records.* These records contain information about ~~pharmacies; individual practitioners including doctors of medicine and surgery, osteopathic medicine and surgery, dentistry, veterinary medicine, podiatry, and optometry; physician assistants; advanced registered nurse practitioners; drug manufacturers, distributors, importers, and exporters; researchers; hospitals and clinics; other health care facilities such as long-term care and nursing care facilities; analytical laboratories; and teaching institutions~~ registrants of the board. This information is collected by the board pursuant to the authority granted in Iowa Code chapter 124 and is stored electronically, in computer, and on paper and in computer.

14.14(6) No change.

14.14(7) *Examination records.* These records contain information about applicants for any of the following examinations: ~~National Association of Boards of Pharmacy Licensure Examination, North American Pharmacist Licensure Examination, Multistate Pharmacy Jurisprudence Examination, Federal Drug Law Examination, and Iowa Drug Law Examination~~ pharmacy competency or jurisprudence examination. These records may also contain information about applicants licensed or pursuing licensure by reciprocity, score transfer, or other means. This information is collected by the board pursuant to the authority granted in Iowa Code chapters 147 and 155A and is stored on paper, electronically, and in computer. The information contained in these records is confidential in part pursuant to Iowa Code sections 147.21, 22.7(1), and 22.7(19).

14.14(8) No change.

14.14(9) *Investigative reports.* These records contain information about the subjects of board investigations and the activities of board investigators. The records include a variety of attachments such as interviews, drug audits, medical records, pharmacy records, exhibits, police reports, incident reports, and investigators’ observations. This information is collected by the board pursuant to the authority granted in Iowa Code chapters 124, 126, 147, and 155A and is stored electronically, in computer, and on paper. The information contained in these records is confidential pursuant to Iowa Code sections 22.7(2), 22.7(5), 22.7(6), 22.7(9), and 22.7(19); ~~147.21(1); 124.504;~~ and 272C.6(4).

14.14(10) *Licensure records.* These records contain information about ~~pharmacists, pharmacies, and wholesalers~~ individuals and entities that are licensed by the board. This information is collected by the board pursuant to the authority granted in Iowa Code chapters 126, 147, and 155A and is stored electronically, on paper, in computer, and in the state archives.

PHARMACY BOARD[657](cont'd)

14.14(11) *Personnel records.* These records contain personal information about board members and staff. This information is stored electronically, in computer, and on paper and microfiche. The personal information contained in these records may be confidential in whole or in part pursuant to Iowa Code section 22.7(11).

14.14(12) No change.

14.14(13) *Routine inspection reports.* These records contain information about ~~pharmacies, controlled substance registrant offices, manufacturers and distributors, and wholesalers~~ licensees and registrants that are inspected by agents of the board to determine compliance with state and federal law. This information is collected by the board pursuant to the authority granted in Iowa Code chapters 124 and 155A and is stored on paper, in computer, and electronically.

14.14(14) *Notifications to the board.* These records contain reports of theft or loss of controlled substances; of ~~pharmacy or drug wholesaler~~ business licensee or registrant openings, closings, and changes of ownership, location, or responsible person; of the sale or transfer of prescription drugs including controlled substances; of disasters, accidents, or emergencies affecting drugs; and of ~~pharmacists', pharmacist interns', pharmacy technicians', and pharmacy support persons' names, addresses~~ changes to individual licensee or registrant name, address, or employment changes. This information is collected by the board pursuant to the authority granted in Iowa Code sections ~~155A.6, 155A.6A and 155A.19 and 2009 Iowa Code Supplement section 155A.6B~~ chapter 155A and is stored on paper, electronically, and in computer.

14.14(15) *Precursor substances permit and distribution records.* These records contain information about precursor substances handlers, both vendors and recipients, and information about the distribution, disposal, or destruction of precursor substances. This information is collected by the board pursuant to the authority granted in Iowa Code chapter 124B and is stored electronically, in computer, and on paper.

14.14(16) *Pharmacy technician records.* These records contain information about pharmacy technicians who are registered by the board. This information is collected by the board pursuant to the authority granted in Iowa Code chapter 155A and is stored electronically, in computer, and on paper and in computer.

14.14(17) No change.

ARC 6421C

PHARMACY BOARD[657]

Notice of Intended Action

Proposing rule making related to notification time frame for care facility immunization programs and providing an opportunity for public comment

The Board of Pharmacy hereby proposes to amend Chapter 23, "Care Facility Pharmacy Practice," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 147.76.

Purpose and Summary

The proposed amendment, which is the result of an overall five-year review of rules as required by Iowa Code section 17A.7(2) and a recommendation from a care facility pharmacy stakeholder, provides a time frame for a care facility to submit documentation to the provider pharmacy relating to the administration of vaccines provided by the pharmacy for an immunization or screening program.

PHARMACY BOARD[657](cont'd)

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on August 16, 2022. Comments should be directed to:

Sue Mears
Board of Pharmacy
400 S.W. 8th Street, Suite E
Des Moines, Iowa 50309
Email: sue.mears@iowa.gov

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Amend subrule 23.14(3) as follows:

23.14(3) Notification. The facility shall submit to the provider pharmacy a listing of those residents or staff members who have been immunized utilizing vaccine from each vial supplied by the provider pharmacy no later than seven days following administration of the vaccine.

ARC 6422C

PHARMACY BOARD[657]**Notice of Intended Action****Proposing rule making related to outsourcing facilities
and providing an opportunity for public comment**

The Board of Pharmacy hereby proposes to amend Chapter 41, “Outsourcing Facilities,” Iowa Administrative Code.

PHARMACY BOARD[657](cont'd)

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 147.76, 147.80, and 155A.13C.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 147.80 and 155A.13C.

Purpose and Summary

This proposed rule making, a result of an overall five-year review as required in Iowa Code section 17A.7(2), provides:

- More detailed information for applicants relating to the inspection requirement provided in Iowa Code section 155A.13C(1)“e”;
- Clarification on when a change of ownership is determined to have occurred, necessitating a license change;
- Late penalty fees to be assessed when an outsourcing facility is not timely in submitting an application for license changes; and
- A fee to be assessed to a licensee for written verification of a license when the Board’s online verification system is available at no charge.

Fiscal Impact

The fiscal impact of this proposed rule making to the State of Iowa is unknown. The intention of this rule making is to incentivize licensees to timely submit license change applications and to utilize the Board’s online verification system at no charge when license verification is needed.

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on August 16, 2022. Comments should be directed to:

Sue Mears
Board of Pharmacy
400 S.W. 8th Street, Suite E
Des Moines, Iowa 50309
Email: sue.mears@iowa.gov

Public Hearing

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

PHARMACY BOARD[657](cont'd)

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Amend rule 657—41.3(155A) as follows:

657—41.3(155A) Outsourcing facility license. ~~Beginning January 1, 2018, an~~ An outsourcing facility shall apply for and obtain an outsourcing facility license from the board prior to providing non-patient-specific compounded human drug products in this state. The applicant shall submit a completed application along with an application fee of \$400. An outsourcing facility that intends to distribute controlled substances in or into Iowa shall also, prior to distributing such substances in or into Iowa, apply for and obtain an Iowa controlled substances Act registration pursuant to 657—Chapter 10.

41.3(1) Application requirements. The application shall require demographic information about the facility; ownership information; the name, signature and home state license number for the supervising pharmacist; an attestation that the supervising pharmacist has read and understands the laws and rules relating to sterile compounding in Iowa; information about the entity's registered agent; criminal and disciplinary history information; and a description of the scope of services to be provided in Iowa. As part of the application process, the applicant shall also:

a. to d. No change.

e. Submit evidence of a satisfactory inspection conducted by the home state regulatory authority or an entity approved by the board in accordance with subrule 41.3(6) along with evidence of corrective action taken to satisfy any deficiency identified in the inspection report and of compliance with all legal directives of the home state licensing authority.

41.3(2) and 41.3(3) No change.

41.3(4) License changes.

a. License change application submission. If an outsourcing facility has a change of name, ownership, location or supervising pharmacist, the facility shall submit to the board an outsourcing facility license application and applicable fee within ten days of the FDA's issuance of an updated registration. Following processing of the completed license application and fee, the board shall issue a new license certificate that reflects the change or changes. A change of ownership occurs when the owner listed on the outsourcing facility's most recent application changes.

b. Delinquent license change application submission. An outsourcing facility that has submitted an application for license change after the required date of submission pursuant to this subrule but within 30 days of the required date of submission shall be assessed a nonrefundable late penalty fee of \$400 in addition to the license fee. An outsourcing facility that has submitted an application for license change 31 days or later following the required date of submission pursuant to this subrule shall be assessed a nonrefundable late penalty fee of \$1,600.

41.3(5) No change.

41.3(6) Inspection requirements. An outsourcing facility submitting any application for licensure, except when related to a change in location or except when the outsourcing facility is located in Iowa and will be subject to an opening inspection prior to issuance of an initial license, shall submit with its application and fee an inspection report that satisfies the following requirements:

a. Less than two years have passed since the date of the inspection and the inspection report is the most recent inspection report available that satisfies the requirements of these rules.

b. The inspection occurred while the outsourcing facility was in operation. Except when the facility is located in Iowa and seeking initial licensure, an inspection prior to the initial opening of the facility shall not satisfy this requirement.

PHARMACY BOARD[657](cont'd)

c. The inspection report demonstrates compliance with good manufacturing practices and addresses all aspects of the outsourcing facility's business that will be conducted in Iowa.

d. The inspection was performed by or on behalf of the home state licensing authority, if available.

41.3(7) Qualified inspector. If the home state licensing authority has not conducted an inspection satisfying the inspections requirements identified in subrule 41.3(6), the outsourcing facility shall submit an inspection report issued by one of the following:

a. Another qualified entity if the entity is preapproved by the board.

b. An authorized agent of the board. The board may recover from an outsourcing facility, prior to the issuance of an outsourcing facility license, the costs associated with conducting an inspection.

41.3(8) License verification fee. The board may require a nonrefundable fee of \$15 for completion of a request for written license verification of any outsourcing facility license.

ARC 6432C

PUBLIC HEALTH DEPARTMENT[641]**Notice of Intended Action****Proposing rule making related to the center for congenital and inherited disorders and providing an opportunity for public comment**

The Public Health Department hereby proposes to amend Chapter 4, "Center for Congenital and Inherited Disorders," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 136A.8 and 2022 Iowa Acts, Senate File 2345.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 136A and 2022 Iowa Acts, Senate File 2345.

Purpose and Summary

The proposed amendments will accomplish the following:

- Add definitions of "Iowa newborn screening panel," "Iowa newborn screening program," and "federal recommended uniform screening panel" (pursuant to 2022 Iowa Acts, Senate File 2345).
- Rescind language requiring State Board of Health approval to add disorders to or remove disorders from the newborn screening panel.
- Provide a fax number for the submission of refusal forms.
- Remove language establishing the newborn screening fee and describe the authority given to the State Hygienic Laboratory (SHL) to establish the newborn screening fee, pursuant to Senate File 2345.
- Describe the authority given through Senate File 2345 to the Congenital and Inherited Disorders Advisory Committee (CIDAC) to review newborn screening conditions on the federal recommended uniform screening panel (U.S. Department of Health and Human Services Recommended Uniform Screening Panel (RUSP)) to determine whether to add them to Iowa's newborn screening panel.
- Establish timelines for CIDAC's review and consideration of RUSP conditions (within 12 months of the addition of the condition to the RUSP) and for the Department to add the condition(s) to the state newborn screening panel (within 18 months of CIDAC's recommendation).
- Add a description of CIDAC membership pursuant to Senate File 2345.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Fiscal Impact

This rule making may have a fiscal impact to the State of Iowa. There will be additional expenses for laboratory equipment and infrastructure to support the testing, including test supplies, education materials, and training provided to expecting parents and providers. 2022 Iowa Acts, Senate File 2345, gives authority to the SHL to establish a newborn screening fee schedule in a manner sufficient to support the newborn screening system of care.

The costs of the additional jobs, equipment, supplies, trainings, and educational materials are dependent on the type of disorders added to the newborn screening panel; each disorder comes with specific testing methodology and expertise requirements, so costs are unknown until such time as the capacity of the current system and the administration, laboratory, clinical, and follow-up needs for expansion of the panel for the specific disorder(s) can be assessed.

Jobs Impact

The addition of disorders to the newborn screening panel as required by 2022 Iowa Acts, Senate File 2345, may create additional jobs for those with expertise in the disorder(s) added, such as laboratory scientists, bioinformaticians, medical geneticists, genetic counselors, and follow-up nurses.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the Department's waiver provisions contained in 641—Chapter 178.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on August 16, 2022. Comments should be directed to:

Kimberly Piper
Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: kimberly.piper@idph.iowa.gov

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 1. Amend subrule 4.1(1) as follows:

4.1(1) *Advisory committee.* The center for congenital and inherited disorders advisory committee represents the interests of the people of Iowa and assists in the development of programs that ensure the availability of and access to quality genetic and genomic health care services by all residents. The advisory committee advises the director of the department of public health regarding issues related to genetics and hereditary and congenital disorders and makes recommendations about the design and implementation of the center's programs.

ITEM 2. Adopt the following new definitions of "Federal recommended uniform screening panel," "Iowa newborn screening panel" and "Iowa newborn screening program" in rule **641—4.2(136A)**:

"Federal recommended uniform screening panel" means the list of disorders for which the U.S. Department of Health and Human Services recommends states screen as part of their state newborn screening panels.

"Iowa newborn screening panel" or *"newborn screening panel"* means the list of disorders for which the department screens Iowa newborns.

"Iowa newborn screening program" or *"INSP"* means a program that provides screening of live-born Iowa newborns for the disorders listed on the Iowa newborn screening panel.

ITEM 3. Amend rule **641—4.2(136A)**, definitions of "Committee" and "Specialty genetics provider," as follows:

"Committee Advisory committee" means the congenital and inherited disorders advisory committee (CIDAC).

"Specialty genetics provider" means a medical geneticist, genetic nurse, or genetic counselor.

ITEM 4. Amend paragraphs **4.3(1)"a"** and **"b"** as follows:

a. All newborns and infants born in the state of Iowa shall be screened for all congenital and inherited disorders on the Iowa newborn screening panel as specified by the center and approved by the state board of health.

b. As new disorders are recognized and new technologies and tests become available, the center shall follow protocols developed by the department in regard to the addition of disorders to or the deletion of disorders from the screening panel. ~~The state board of health shall provide final approval for the addition of disorders to or the deletion of disorders from the screening panel.~~

ITEM 5. Amend paragraph **4.3(2)"b"** as follows:

b. *Refusal of screening.* Should a parent or guardian refuse the screening, said refusal shall be documented in the infant's medical record, and the parent or guardian shall sign the refusal of screening form. The birthing facility or attending health care provider shall submit the signed refusal of screening form to the central laboratory within six days of the refusal. The birthing facility or attending health care provider may submit refusal forms via the courier service established for the transportation of newborn screening specimen collection forms or via secure facsimile to (319)384-5116.

ITEM 6. Amend subparagraph **4.3(9)"a"(2)** as follows:

(2) Refusal. Should a parent or guardian refuse the screening, said refusal shall be documented in the infant's medical record, and the parent or guardian shall sign the refusal of screening form. The birthing facility or attending health care provider shall submit the signed refusal form to the central laboratory within six days of the refusal. The birthing facility or attending health care provider may submit refusal forms via the courier service established for the transportation of newborn screening specimen collection forms or via secure facsimile to (319)384-5116.

ITEM 7. Amend subrule 4.3(10) as follows:

4.3(10) *INSP and IMPSP fees.*

a. ~~The department shall annually review and determine the fee to be charged for all activities associated with the INSP and the IMPSP. The review and fee determination shall be completed at least one month prior to the beginning of the fiscal year. The newborn screening fee is \$122. In consultation with the department, the SHL shall establish the newborn screening fee schedule in a manner sufficient to support the newborn screening system of care including, but not limited to, laboratory screening costs,~~

PUBLIC HEALTH DEPARTMENT[641](cont'd)

short-term and long-term follow-up program costs, the newborn screening developmental fund, and the cost of the department's newborn screening data system.

~~b. The department SHL shall include as part of the INSP fee an amount determined by the committee and department to fund the provision of special medical formula and foods for eligible individuals with inherited diseases of amino acids and organic acids who are identified through the programs.~~

~~c. Funds collected through newborn screening fees shall be used for newborn screening program activities only.~~

~~d. Funds collected through maternal prenatal screening fees shall be used for maternal prenatal screening activities only.~~

~~e. In order to support newborn and maternal prenatal screening activities, the department shall authorize the expenditure and exchange of newborn screening and maternal prenatal screening developmental funds between the SHL (as designated fiscal agent) and the department.~~

~~f. Upon department approval of proposed budgets, a~~ A portion of INSP and IMPSP fees shall be distributed to the department to support activities of the INSP and the IMPSP at the center for congenital and inherited disorders (CCID).

ITEM 8. Amend rules 641—4.11(136A) to 641—4.13(136A) as follows:

~~**641—4.11(136A) Purpose.** CIDAC represents the interests of the people of Iowa and assists in the development of programs that ensure the availability of and access to quality genetic and genomic health care services by all residents. The committee advises the director regarding issues related to genetics and hereditary and congenital disorders. A congenital and inherited disorders advisory committee (CIDAC or advisory committee) is established to assist the center for congenital and inherited disorders and the department in the development of programs that ensure the availability of and access to quality genetic and genomic health care services for all Iowans.~~

641—4.12(136A) Duties of the advisory committee. CIDAC shall perform the following duties:

4.12(1) Make recommendations about the design and implementation of the center's programs, including but not limited to:

~~a. The Iowa newborn screening program; including management of the Iowa newborn screening panel.~~

(1) The advisory committee shall assist the center for congenital and inherited disorders and the department in designating the conditions to be included in the newborn screening and in regularly evaluating the effectiveness and appropriateness of the newborn screening.

(2) Beginning July 1, 2022, the advisory committee shall ensure that all conditions included in the federal recommended uniform screening panel as of January 1, 2022, are included in the newborn screening.

(3) Within 12 months of the addition of a new condition to the federal recommended uniform screening panel, the advisory committee shall consider and make a recommendation to the department regarding inclusion of the new condition in the newborn screening panel, including the current newborn screening capacity to screen for the new condition and the resources necessary to screen for the new condition going forward.

(4) If the advisory committee recommends inclusion of a new condition, the department shall include the new condition in the newborn screening panel within 18 months of receipt of the recommendation;

~~b. The regional genetics consultation service;~~

~~c. The maternal prenatal screening program;~~

~~d. The neuromuscular and related genetic disorders program; and~~

~~e. The Iowa registry for congenital and inherited disorders.~~

4.12(2) Support the development of special projects and conferences regarding genetic and genomic health care services and issues.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

4.12(3) Advocate for quality genetic and genomic health care services for all residents in the state of Iowa.

641—4.13(136A) Membership. The members of the advisory committee shall be appointed by the director and shall include persons with relevant expertise and interest including parent representatives. Membership will be comprised of representatives of professional groups, agencies, legislators, parents, consumers, and professional health care providers.

4.13(1) ~~CIDAC shall be comprised of regular, ex officio, and honorary members~~ membership.

a. to e. No change.

4.13(2) No change.

4.13(3) The director will appoint regular and honorary advisory committee members for three fiscal years. Reappointment of regular and honorary members shall be at the discretion of the director.

ITEM 9. Amend subrule 4.14(1) as follows:

4.14(1) Meetings of the advisory committee will be held as necessary and at the call of the director or the chairperson. There shall be a minimum of four meetings per year.

ITEM 10. Amend subparagraph **4.14(6)“b”(1)** as follows:

(1) A designee of similar standing must be able to reasonably fulfill the member’s role on the advisory committee in discussions.

ARC 6420C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

**Proposing rule making related to water treatment systems
and providing an opportunity for public comment**

The Public Health Department hereby proposes to rescind Chapter 14, “Water Treatment Systems,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code chapter 714 and 2022 Iowa Acts, Senate File 2232.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 714 and 2022 Iowa Acts, Senate File 2232.

Purpose and Summary

The proposed rescission of Chapter 14 will eliminate the registration requirement at the state level for water treatment systems. On April 21, 2022, Governor Reynolds signed 2022 Iowa Acts, Senate File 2232, which strikes Iowa Code section 714.16(2)“h,” which currently states that it is an unlawful practice for a person to sell, lease, rent, or advertise the sale, lease, or rental of a water treatment system in this state, for which claims or representation of removing health-related contaminants are made, unless the water treatment system has been performance-tested by a third-party testing agency that has been authorized by the Department. 2022 Iowa Acts, Senate File 2232, provides that it is now unlawful for a person to sell, lease, rent, or advertise the sale, lease, or rental of a water treatment system in this state, for which claims or representations related to the removal of health-related contaminants are made, unless a certification body accredited by the American National Standards Institute certifies all of the claims or representations related to the removal of health-related contaminants.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the Department's waiver provisions contained in 641—Chapter 178.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on August 16, 2022. Comments should be directed to:

Ken Sharp
Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.281.5099
Email: kenneth.sharp@idph.iowa.gov

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Rescind and reserve **641—Chapter 14**.

ARC 6429C**REVENUE DEPARTMENT[701]****Notice of Intended Action****Proposing rule making related to the application of assessment limitations by county auditors
and providing an opportunity for public comment**

The Revenue Department hereby proposes to amend Chapter 71, “Assessment Practices and Equalization,” Iowa Administrative Code.

REVENUE DEPARTMENT[701](cont'd)

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 421.14, 421.17(1), 421.17(4) and 441.21(9).

State or Federal Law Implemented

This rule making implements, in whole or in part, 2022 Iowa Acts, House File 2552, division XI.

Purpose and Summary

This proposed rule making addresses the application of the first of two assessment limitation tiers for commercial, industrial, and railway property assessed under Iowa Code chapter 434. 2022 Iowa Acts, House File 2552, division XI, repeals the Business Property Tax Credit under Iowa Code chapter 426C on July 1, 2024, and creates a two-tier assessment limitation for properties classified as commercial, industrial, and railway property assessed under Iowa Code chapter 434 for assessment years beginning on or after January 1, 2022. The first tier of assessment limitation provides that the first \$150,000 of value for properties classified as commercial, industrial, and railway property assessed under Iowa Code chapter 434 shall receive the assessment limitation percentage applicable to residential property. For the second tier, any value in excess of \$150,000 for commercial, industrial, and railway properties assessed under Iowa Code chapter 434 shall receive a 90 percent assessment limitation.

This proposed rule making requires county auditors to apply the first tier of the assessment limitation proportionately by percentage of total value among the parcels for property units that are comprised of multiple parcels.

Citations in the rule to Iowa Code section 441.21 reflect that section as amended by 2022 Iowa Acts, House File 2552, sections 36 and 37.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on August 16, 2022. Comments should be directed to:

Nick Behlke
Iowa Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306
Phone: 515.336.9025
Email: nick.behlke@iowa.gov

REVENUE DEPARTMENT[701](cont'd)

Public Hearing

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

August 16, 2022
1 to 2 p.m.

Via video/conference call

Persons who wish to participate in the video/conference call should contact Nick Behlke before 4:30 p.m. on August 15, 2022, to facilitate an orderly hearing. A video link or conference call number will be provided to participants prior to the hearing.

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

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Adopt the following **new** rule 701—71.29(441):

701—71.29(441) Application of two-tier assessment limitation.

71.29(1) Following receipt of the certification of assessment limitations described in Iowa Code section 441.21(9), the county auditor shall determine the assessed values of property by applying the assessment limitations as required under Iowa Code section 441.21(9).

71.29(2) When a property unit of commercial property, industrial property, or property valued by the department pursuant to Iowa Code chapter 434 is comprised of more than one parcel, the county auditor shall apply the assessment limitations described in Iowa Code sections 441.21(5) "b"(2)(a) and 441.21(5) "c"(2)(a), as applicable, to each parcel within the property unit by dividing 150,000 by the value of the entire property unit and multiplying the quotient by the value of each parcel within the property unit. Any remaining value of each parcel within the property unit shall receive the assessment limitations described in Iowa Code sections 441.21(5) "b"(2)(b) and 441.21(5) "c"(2)(b), as applicable. The assessment limitations shall be applied as whole numbers.

EXAMPLE A: Parcels 1, 2, and 3 comprise one property unit of commercial, industrial, or railway property valued at \$300,000 total.

Parcel 1 is assessed at \$100,000.

Parcel 2 is assessed at \$100,000.

Parcel 3 is assessed at \$100,000.

The first \$50,000 of value of each parcel receives the assessment limitation applicable to residential property. The additional value of each parcel receives the applicable assessment limitation for commercial, industrial, or railway property assessed under Iowa Code chapter 434 described in Iowa Code sections 441.21(5) "b"(2)(b) and 441.21(5) "c"(2)(b).

EXAMPLE B: Parcels 1, 2, 3, and 4 comprise one property unit of commercial, industrial, or railway property valued at \$850,000 total.

Parcel 1 is assessed at \$500,000.

Parcel 2 is assessed at \$200,000.

Parcel 3 is assessed at \$100,000.

REVENUE DEPARTMENT[701](cont'd)

Parcel 4 is assessed at \$50,000.

The first \$88,235 of value of Parcel 1 receives the assessment limitation applicable to residential property. The additional value of the parcel receives the applicable assessment limitation for commercial, industrial, or railway property assessed under Iowa Code chapter 434 described in Iowa Code sections 441.21(5)“b”(2)(b) and 441.21(5)“c”(2)(b).

The first \$35,294 of value of Parcel 2 receives the assessment limitation applicable to residential property. The additional value of the parcel receives the applicable assessment limitation for commercial, industrial, or railway property assessed under Iowa Code chapter 434 described in Iowa Code sections 441.21(5)“b”(2)(b) and 441.21(5)“c”(2)(b).

The first \$17,647 of value of Parcel 3 receives the assessment limitation applicable to residential property. The additional value of the parcel receives the applicable assessment limitation for commercial, industrial, or railway property assessed under Iowa Code chapter 434 described in Iowa Code sections 441.21(5)“b”(2)(b) and 441.21(5)“c”(2)(b).

The first \$8,824 of value of Parcel 4 receives the assessment limitation applicable to residential property. The additional value of the parcel receives the applicable assessment limitation for commercial, industrial, or railway property assessed under Iowa Code chapter 434 described in Iowa Code sections 441.21(5)“b”(2)(b) and 441.21(5)“c”(2)(b).

EXAMPLE C: Parcels 1 and 2 comprise one property unit of commercial, industrial, or railway property valued at \$500,000 total.

Parcel 1 is assessed at \$400,000.

Parcel 2 is assessed at \$100,000.

The first \$120,000 of value of Parcel 1 receives the assessment limitation applicable to residential property. The additional value of the parcel receives the applicable assessment limitation for commercial, industrial, or railway property assessed under Iowa Code chapter 434 described in Iowa Code sections 441.21(5)“b”(2)(b) and 441.21(5)“c”(2)(b).

The first \$30,000 of value of Parcel 2 receives the assessment limitation applicable to residential property. The additional value of the parcel receives the applicable assessment limitation for commercial, industrial, or railway property assessed under Iowa Code chapter 434 described in Iowa Code sections 441.21(5)“b”(2)(b) and 441.21(5)“c”(2)(b).

This rule is intended to implement Iowa Code sections 441.21(5) and 441.21(9) as amended by 2022 Iowa Acts, House File 2552.

ARC 6427C

SECRETARY OF STATE[721]

Notice of Intended Action

Proposing rule making related to fees and providing an opportunity for public comment

The Secretary of State hereby proposes to amend Chapter 30, “Uniform Commercial Code,” and Chapter 40, “Corporations,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code chapter 17A and section 9.4A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 9.4A and 2022 Iowa Acts, Senate File 2385, section 29.

SECRETARY OF STATE[721](cont'd)

Purpose and Summary

In 2017, the Legislature authorized the Secretary of State to temporarily increase some fees for the purposes of modernizing Secretary of State technology to benefit Iowa's business community. Those temporary increases ended effective June 30, 2022. This proposed rule making reverts those fees to the amounts prior to the increase. The Secretary of State's office stopped collecting the extra fees as scheduled starting July 1, 2022. This rule making reflects that practice.

Fiscal Impact

The Secretary of State received up to \$2 million in revenue to update and modernize technology. That total, plus slightly more in some years (sent to the General Fund), will no longer be collected by the Secretary of State. This is not an impact of the rule making itself, but is due to the sunset in the 2017 legislation authorizing those fees, ending June 30, 2022. This rule making merely reflects the sunset provision.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Secretary of State for a waiver of the discretionary provisions, if any, pursuant to 721—Chapter 10.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Secretary of State no later than 4:30 p.m. on August 16, 2022. Comments should be directed to:

Molly Widen
Office of the Secretary of State
Lucas State Office Building, First Floor
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.281.5864
Email: molly.widen@sos.iowa.gov

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

SECRETARY OF STATE[721](cont'd)

ITEM 1. Amend subrule 30.1(10) as follows:

30.1(10) Filing fees.

a. Filing fee. The fee for filing and indexing a UCC document of one or two pages communicated on paper or in a paper-based format (including faxes) is ~~\$20~~ \$10. If there are additional pages, the fee is ~~\$40~~ \$20. But the fee for filing and indexing a UCC document communicated by a medium authorized by these rules which is other than on paper or in a paper-based format shall be ~~\$10~~ \$5. ~~Upon the expiration of the technology modernization fund in Iowa Code section 9.4A, as created by 2017 Iowa Acts, Senate File 516, section 23, the fees will revert back to the amounts authorized prior to July 1, 2017. Funds generated by these fees shall be exclusively used for improving business services technology.~~

b. UCC search fee. The fee for a UCC search request communicated verbally, on paper or in a paper-based format is \$5.

c. UCC search—copies. The fee for paper copies of UCC documents is \$1 per page.

ITEM 2. Amend subrule 40.8(1) as follows:

40.8(1) A limited partnership or foreign limited partnership authorized to transact business in this state shall deliver to the secretary of state for filing a biennial report that meets the requirements of Iowa Code section 488.210.

a. The fee for filing and indexing a biennial report filed on paper or in a paper-based format is ~~\$60~~ \$45. This fee may be provided in the form of credit card, cash, personal check, cashier's check, or money order or by secretary of state charge account. ~~Upon the expiration of the technology modernization fund in Iowa Code section 9.4A, as created by 2017 Iowa Acts, Senate File 516, section 23, the fee will revert back to the amount authorized prior to July 1, 2017. Funds generated by this fee shall be exclusively used for improving business services technology.~~

b. The fee for an electronic filing through the secretary of state Internet website is ~~\$45~~ \$30. This fee must be paid by check, credit card, or secretary of state charge account ~~credit card or secretary of state charge account~~. ~~Upon the expiration of the technology modernization fund in Iowa Code section 9.4A, as created by 2017 Iowa Acts, Senate File 516, section 23, the fee will revert back to the amount authorized prior to July 1, 2017. Funds generated by this fee shall be exclusively used for improving business services technology.~~

ITEM 3. Amend subrule 40.8(2) as follows:

40.8(2) A limited liability company or a foreign limited liability company authorized to transact business in this state shall deliver to the secretary of state for filing a biennial report that meets the requirements of Iowa Code section 489.209.

a. The fee for filing and indexing a biennial report filed on paper or in a paper-based format is ~~\$60~~ \$45. This fee may be provided in the form of credit card, cash, personal check, cashier's check, or money order or by secretary of state charge account. ~~Upon the expiration of the technology modernization fund in Iowa Code section 9.4A, as created by 2017 Iowa Acts, Senate File 516, section 23, the fee will revert back to the amount authorized prior to July 1, 2017. Funds generated by this fee shall be exclusively used for improving business services technology.~~

b. The fee for an electronic filing through the secretary of state Internet website is ~~\$45~~ \$30. This fee must be paid by check, credit card, or secretary of state charge account ~~credit card or secretary of state charge account~~. ~~Upon the expiration of the technology modernization fund in Iowa Code section 9.4A, as created by 2017 Iowa Acts, Senate File 516, section 23, the fee will revert back to the amount authorized prior to July 1, 2017. Funds generated by this fee shall be exclusively used for improving business services technology.~~

ITEM 4. Rescind subrule **40.8(3)**.

ITEM 5. Amend **721—Chapter 40**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 490, 491, 499, 504, and 548 ~~and 2017 Iowa Acts, Senate File 516, section 23.~~

DEPARTMENT OF TRANSPORTATION

Advisory Notice

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

Pursuant to the authority of Iowa Code section 314.1B, the Director of Transportation gives an advisory notice of adjusted bid thresholds for city and county highway, bridge, and culvert construction, reconstruction and improvement projects. The adjusted bid threshold values will become effective January 1, 2023.

The horizontal infrastructure bid threshold subcommittee, composed of three contractors, two county representatives, one city representative and the Director's designee, corresponded via in-person and virtual meeting on June 3, 2022, to review bid thresholds. After a review of the construction price index, the subcommittee made the following three adjustments to bid thresholds for city and county highway, bridge, and culvert construction, reconstruction and improvement projects:

1. The county bid threshold in Iowa Code section 309.40 will be adjusted from \$100,000 to \$120,000 effective January 1, 2023.
2. The bid threshold in Iowa Code section 314.1(2) for cities with a population of 50,000 or less will be adjusted from \$54,000 to \$65,000 effective January 1, 2023.
3. The bid threshold in Iowa Code section 314.1(2) for cities with a population of more than 50,000 will be adjusted from \$77,000 to \$93,000 effective January 1, 2023.

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

ARC 6434C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rule making related to primary highway access control and providing an opportunity for public comment

The Transportation Department hereby proposes to rescind Chapter 112, "Primary Road Access Control," to adopt new Chapter 112, "Primary Highway Access Control," and to amend Chapter 150, "Improvements and Maintenance on Primary Road Extensions," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 306.19, 306A.1 to 306A.8, 307.12, 318.3, 318.5 and 318.8.

Purpose and Summary

This proposed rule making rescinds and replaces Chapter 112 and makes a coordinating amendment within Chapter 150. This action is needed because the current Chapter 112 is outdated with many of its key components, such as the priority system, entrance types and design criteria, being essentially unchanged since Iowa started building the interstate system. The Department's process to design and operate Iowa's highways has changed over the years to reflect better integration with communities, economic development, budgets and safety. The proposed rules better define the Department's efforts

TRANSPORTATION DEPARTMENT[761](cont'd)

to provide a first-class transportation system that maximizes safe and efficient travel while ensuring landowners and businesses the ability to access and utilize the transportation system.

Safety has played a major role in the creation of this proposed updated chapter. Each new proposed access point (driveway) onto the primary highway system will be reviewed relative to its impact on the safety and operations of the highway. A research project was conducted by Iowa State University to document how Iowa crash rates vary relative to multiple access types under a variety of roadway conditions. The findings of this study were used to develop new processes that will allow the Department to quickly and easily approve new accesses on roadways where there are fewer safety concerns and to ensure safety and operations are maintained on roadways where conditions are at more critical levels.

Chapter 112 is rewritten using best practices from other states and engineering principles that factor in roadway geometrics and traffic volumes to “right size” the proposed new access. When the proposed access will add a small number of new trips to and from a location, such as a local residence or farm fields, the Department will be able to allow more options and fewer restrictions to the landowner. When the proposed access will add a high number of new trips to and from the location and will be located in an area where roadway conditions are near critical, then the Department may require additional safety features such as an added turn lane to ensure the roadway remains safe and efficient. The proposed updated chapter benefits the traveling public and the landowner wanting a new access by allowing the Department to use real-world roadway conditions rather than blanket spacing or other requirements that provided little flexibility in the past.

Educational statements and descriptions or definitions that are unique to the current Chapter 112 are proposed to be removed, and the proposed new rules refer to Department standards. This has been done in part to ensure that a new access is built using the same requirements regardless of who builds the new access. These changes help in condensing Chapter 112 from approximately 26 pages down to 9. This simplification of rules also makes for an easier and clearer set of requirements.

The following explanation summarizes the proposed major changes within Chapter 112:

Remove definitions. The following terms are proposed to be removed because they are no longer needed or do not require being defined in order to understand the rules: “acquisition,” “bridge,” “built-up area,” “clear zone,” “concrete box culvert,” “controlled access highway,” “district representative,” “entrance,” “entrance type,” “entrance width,” “fringe area,” “frontage,” “frontage road,” “fully controlled access highway,” “interchange,” “median,” “normal peak hour traffic,” “pavement,” “predetermined access location,” “ramp bifurcation,” “recreational trail,” “right-of-way line,” “rural area,” “rural-designed area,” “shoulder,” “sight distance,” “special access connection,” “turning lane,” and “urban-designed area.”

The following definitions are proposed to be removed because the priority system is being amended to a category system that will better balance access control with the needs of the property: “Priority I highway,” “Priority II highway,” “Priority III highway,” “Priority IV highway,” “Priority V highway,” and “Priority VI highway.”

Add new definitions. The term “access connection” is proposed to be added because a term is needed for the physical portion of the entrance to have a clear understanding of Chapter 112 and is not otherwise defined.

The terms “average annual daily traffic,” “intersection,” “ramp,” and “trip” are proposed to be added because the definitions are needed for a clear understanding of Chapter 112.

The term “functional area” is proposed to be added because it provides a consistent calculation method for determining the first access point from newly constructed intersections, interchanges and free-flowing movements. The intent of adding the term “functional area” is to improve safety and operations.

The term “necessity” is proposed to be added because it helps with clarifying the access decision process and further defines what the applicant is required to provide. The intent is to better balance traffic operations, safety and the needs of the public.

Amend current definitions. The term “access” is proposed to be amended to reflect that Chapter 112 applies only to highways.

TRANSPORTATION DEPARTMENT[761](cont'd)

The term “highway” is proposed to be amended because this definition needs to be consistent with Iowa Code section 321.1(78), which provides a clearer understanding of how “highway” is used in the revised Chapter 112.

The term “primary highway” is proposed to be amended because Chapter 112 needs a definition for highways under the Department’s jurisdiction.

The term “roadway” is proposed to be amended because it needs to be consistent with Iowa Code section 321.1(65), which provides a clearer understanding of how “roadway” is used in the revised Chapter 112.

The term “traveled way” is proposed to be amended by adding the word “gutter” to better define “traveled way.”

Subrule 112.3(2). This subrule proposes to require the applicant to apply for a new permit when there is a change in use of the access. This subrule is added to ensure that access usage and design align. The intent is to increase safety in conjunction with access.

Subrule 112.3(6). This subrule explains that no rights of access are conveyed. The Department issues permits for new access connections and modifications to an existing access connection. This subrule proposes to clarify that permits do not convey ownership and are considered licenses. The intent is to encourage better communication with property owners regarding their rights.

Rule 761—112.4(17A,306A,318). This rule is proposed to be updated because of a new web-based permitting system the Department implemented.

Paragraph 112.4(1)“g.” This paragraph proposes to add a traffic impact analysis for type A and type B access applications, which allows for a long-range review of high-volume accesses. The intent is to improve safety and operations of the highway.

Subrule 112.4(5). The current chapter includes a simplistic appeals process that would only work for the denial of a permit and has no established timelines. Chapter 112 needs to provide applicants an opportunity to contest any type of Department decision related to access, not just the denial of a permit, so the appeals process is proposed to be amended.

Subrule 112.5(2). The proposed changes determine the access type by using traffic volumes in the design year. A type D access, which is a low-volume access, is being introduced. The intent is to be more lenient on spacing requirements to allow more low-volume accesses per parcel.

Subrule 112.5(3). The proposed changes replace a priority classification with a category classification. There are nine categories identified by function, design, volume, etc. The new categories will better balance access control with the needs of the property.

Paragraph 112.5(4)“a.” This paragraph introduces a report for category revisions and is proposed to formalize a process for making these revisions. The intent is to encourage more documentation of access decisions and procedures.

Subrule 112.5(6). The proposed addition of access management plans and agreements acknowledges the need to handle access jointly with local agencies, allows for flexibility on highway segments that do not fit any categories, and addresses more complex and existing conditions in urban areas and growing areas.

Subrule 112.6(12). This subrule states that an access shall be designed to prevent queuing of vehicles on the roadway. This proposed change will help improve the safety of roadways and minimize congestion.

Removal of current rule 761—112.14(306A). This rule is not proposed to be included within new Chapter 112 because recreational trail connections to the highway are different than vehicular connections and the proposed new Chapter 112 addresses vehicular connections.

Fiscal Impact

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

Jobs Impact

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

TRANSPORTATION DEPARTMENT[761](cont'd)

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on August 16, 2022. Comments should be directed to:

Tracy George
 Department of Transportation
 DOT Rules Administrator, Government and Community Relations
 800 Lincoln Way
 Ames, Iowa 50010
 Email: tracy.george@iowadot.us

Public Hearing

If requested, a public hearing to hear oral presentations will be held on August 18, 2022, via conference call at 10 a.m. Persons who wish to participate in the conference call should contact Tracy George before 4:30 p.m. on August 16, 2022, to facilitate an orderly hearing. A conference call number will be provided to participants prior to the hearing.

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

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

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Rescind 761—Chapter 112 and adopt the following **new** chapter in lieu thereof:

CHAPTER 112
 PRIMARY HIGHWAY ACCESS CONTROL

761—112.1(306A,318) Scope and contact information.

112.1(1) Statement of policy. All primary highways are controlled access facilities. The efficiency and safety of a highway depend to a large extent upon the amount and character of interruptions to the movement of traffic. The primary cause of these interruptions is vehicular movement to and from public roadways, businesses, residences, and other developments along the highway. Regulation and overall control of highway access are necessary to provide efficient and safe highway operation and to utilize the full potential of the highway investment. Each highway access connection should be located and

TRANSPORTATION DEPARTMENT[761](cont'd)

designed to achieve the least adverse impact to traffic operations and public safety. Accordingly, the department hereby establishes rules for control of access for all primary highways.

112.1(2) Contact information. Information regarding this chapter may be obtained from the department's website at: www.iowadot.gov; any of the department's six district offices; or the Traffic and Safety Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

761—112.2(306A,321) Definitions. The following terms, when used in this chapter, shall have the following meanings unless the context otherwise requires:

"Access" means a way or means of egress or ingress to a highway.

"Access connection" means any point of motor vehicle ingress or egress from or to a highway. It is the physical connection between the edge of the traveled way and the abutting property and is exclusive of the roadway and median.

"Average annual daily traffic" or *"AADT"* means the total volume of traffic passing a point or segment of a highway facility in both directions for one year divided by the number of days in the year.

"Functional area" includes any area upstream or downstream of an intersection where intersection operation and conflicts significantly influence driver behavior and vehicle operations. The functional area of an intersection is a calculated value based on the intersection's geometrics, posted speed limit, traffic volume, type of traffic control used and perception-reaction-time values determined by the American Association of State Highway and Transportation Officials.

"Highway" means the same as "street" or "highway" as defined in Iowa Code section 321.1(78).

"Intersection" means the same as defined in Iowa Code section 321.1(33).

"Necessity" means the access is required or indispensable to the property because of circumstances that cannot be sufficiently mitigated by other means. Proof of necessity refers to documents, data, maps and other information submitted to illustrate and verify the claim of necessity.

"Primary highway" means a highway that is under department jurisdiction.

"Ramp" means a special lane, usually a short section of one-way roadway, which provides an access connection between two roads to enter or exit a major highway. The term "ramp" includes but is not limited to entrance ramps, roadway ramps, loop roads and collector-distributor roads.

"Roadway" means the same as defined in Iowa Code section 321.1(65). A divided highway has two or more roadways.

"Traveled way" means the portion of a roadway used for the through movement of vehicles, excluding shoulders, gutters and auxiliary turn lanes.

"Trip" means a single or one-directional vehicle movement. A vehicle leaving the highway and entering a property is one trip, and the vehicle leaving the property and entering the highway is a second trip.

761—112.3(306A) General provisions. The following provisions govern access encroachments onto a primary highway:

112.3(1) No access connection construction activity on a highway shall begin until an access permit has been issued by the department.

112.3(2) A new access permit is required when there is a change in use of the access connection. A change in access use includes a change in predominant vehicle types or an increase in traffic volumes or a situation when the use exceeds the design and engineering limitations of the existing access design. If the property owner desires to change from the historical access use or to a use not authorized by the terms and conditions of the existing access permit, a new permit is required.

112.3(3) No person shall excavate, fill or make any physical change to any part of the right-of-way without a permit issued by the department.

112.3(4) No person shall drive a motor vehicle to or from a highway at a location that is not an authorized access connection.

112.3(5) No new access rights shall accrue from, and no additional access shall be provided upon, the splitting or dividing of existing parcels of land or contiguous parcels under the same ownership or controlling interest unless the proposed access complies with access category and design

TRANSPORTATION DEPARTMENT[761](cont'd)

requirements and is permitted. Adjacent properties under common ownership or control, consolidated for development, or part of a phased development plan shall be considered one unit, and a unified access and circulation plan shall be established for the site.

112.3(6) No rights of access are conveyed when the department provides a new access connection or modifies an existing access connection.

112.3(7) The terms and conditions of any permit are binding upon the applicant, the property owner and all assigns, successors-in-interest, heirs and occupants. Should an assign, successor-in-interest, heir or occupant not accept the terms and conditions of an existing permit, the assign, successor-in-interest, heir or occupant shall apply for a new access permit or a permit to close the access.

112.3(8) A property owner not wanting to assume responsibility for an access or its requirements may apply for access removal. Such removal shall be at the property owner's expense unless agreement is made for removal during a highway project.

112.3(9) A permit grants no property rights or interests in state right-of-way.

112.3(10) Where there are multiple accesses to the same parcel, the department may consolidate existing access connections during a highway project.

112.3(11) The department has the authority regarding operational modifications to the highway and all access connections.

761—112.4(17A,306A,318) Permitting process. An access permit is required for an encroachment onto public right-of-way for the construction, reconstruction or modification of an access connection or any of its related appurtenances.

112.4(1) Application for an access permit.

a. To obtain an access permit, applicants will use the web-based system found at www.iowadot.gov. If the applicant cannot use or connect to this electronic system, the applicant may contact the appropriate district office that is responsible for the area in which the proposed access is located. An applicant may be the property owner or the owner's authorized agent.

b. A separate access application and permit is required for each access connection.

c. The department will not act on an application it deems incomplete and shall notify the applicant if additional information is required.

d. Intentional misrepresentation of existing or future conditions or providing false information shall be considered sufficient grounds for denial or revocation of a permit.

e. The applicant is responsible for any location and design plans required to describe the access.

f. The applicant is responsible for providing an estimate of the traffic volume of the access and the property as a whole. The estimate will include the anticipated average daily or hourly use and the anticipated access use upon the full development of the property.

g. For access types A and B as defined in subrule 112.5(2) and public intersections, the department should require a traffic impact analysis from the applicant during the processing of a permit request. Such traffic impact analysis shall be prepared by a professional engineer licensed in Iowa at the cost of the applicant. The analysis will address a current and 20-year projection of traffic activity and impacts at and near the proposed access connection, including the full-development traffic volumes of the access connection.

h. It is the responsibility of the applicant to comply with local ordinances and obtain any other local permits, utility permits or agency approvals that may be required.

112.4(2) Processing an access application.

a. Upon receipt of an application, the department will begin processing the application using the electronic permitting system. The department will apply the criteria as required by this chapter, including access type, access category, location, design, public safety and traffic operations.

b. The department may issue an access permit with terms and conditions or deny the application if it fails to meet this chapter's requirements. The department representative shall notify the applicant of the determination.

c. The department will not act on an application it deems incomplete and shall notify the applicant if additional information is required.

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d. Upon mutual agreement by the department and applicant, the department may suspend or extend the process period.

e. The applicant may withdraw the application.

112.4(3) Permit terms and conditions.

a. An access permit shall include terms and conditions necessary to meet the requirements of this chapter and include consideration of the following:

- (1) Safety of the traveling public.
- (2) The access category pursuant to rule 761—112.5(306A).
- (3) The access location and design pursuant to rule 761—112.6(306A).
- (4) The traffic-carrying capacity of the highway.
- (5) Protection of the public investment in the highway.
- (6) Topography and geometric limitations and constraints.

b. The department may restrict turning movements as necessary to reduce adverse impacts. The department will consider the 20-year projection of traffic volumes on the roadway and the full-development traffic volumes of the access connection.

c. Upon issuance of an access permit, the permittee shall initiate construction within one year. An extension may be requested. If the permittee is unable to initiate construction within one year after the permit issue date and no extension is granted, the permit is deemed expired and no longer valid.

d. The property owner and the owner's authorized agent agree by accepting the permit to indemnify, defend and hold harmless the state of Iowa and its employees from all claims arising out of construction or use of the access.

e. The property owner and applicant assume liability for the construction and ongoing use of the access.

f. The permittee shall maintain the access in good repair at all times.

g. If the department has not received the signed copy of the permit within 60 days of the date of transmittal to the applicant, the permit shall be deemed withdrawn.

112.4(4) Permits where department owns access rights.

a. This subrule applies only where the department has determined there is no longer the necessity for the controlled access line at the proposed location. The department may issue an access permit if all design and location criteria are met.

b. If it becomes necessary to close the access, the property owner will be notified in advance and any permit will be revoked. The access application and permitting process do not include any rights of appeal where the department is the owner of the access rights.

112.4(5) Appeals.

a. An applicant or permittee who objects to any terms or conditions placed on an access permit, the denial of a permit, or the closure or revocation of an access may appeal the department's decision. If the department owns the access rights, this subrule does not apply.

- (1) The appeal shall be submitted to the appropriate district engineer at the department.
- (2) An appeal concerning the closure or revocation of an access or the denial of a permit must be submitted within 60 days of receipt of the department's notification.
- (3) An appeal concerning the terms or conditions placed on an access permit must be submitted within 60 days of when the department sends the applicant the signed copy of the permit with terms or conditions for signature.

(4) The appeal shall include reasons for the request and may include changes, revisions or conditions that would be acceptable to the applicant or permittee.

b. The district engineer shall issue a written decision to the applicant or permittee within 60 days of receipt of the appeal or 60 days after receipt of requested additional information.

c. Upon receipt of the written decision, the applicant or permittee may appeal the district engineer's decision by submitting the appeal along with background information to the director of

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transportation. The director shall issue a written decision within 60 days of receipt of the appeal. The director's decision shall be the final agency action.

112.4(6) Waivers. The director of transportation may, in response to a written petition, waive provisions of this chapter in accordance with 761—Chapter 11. The written petition must contain the information as required in 761—subrule 11.5(2) and shall be submitted to the rules administrator, either by mail to Rules Administrator, Government and Community Relations, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; or by email to the rules administrator's email address listed on the department's website at iowadot.gov/administrativerules.

112.4(7) Waivers involving interstate highways. The director of transportation shall not waive these rules in access situations involving the interstate highway system, including its ramps, without the approval of the Federal Highway Administration.

761—112.5(306A) Access types and the primary highway category system. This rule manages access connections according to highway function, design, traffic volumes, speed and roadside conditions.

112.5(1) General.

a. The department will assign access categories to all highways according to the descriptions in subrule 112.5(3).

b. There are no minimum or maximum distance criteria for the length of a category assignment.

c. The department may assign a specific category to a segment of highway based on operational needs and to maintain consistency along a specific route.

d. The department will maintain an access category assignment schedule for the highway system.

e. Municipal access categories are for primary highway extensions within municipalities where concurrent jurisdiction applies pursuant to Iowa Code section 306.4(4).

f. For all access categories, access connections should be kept to the minimum necessary to provide reasonable access. A second access to a parcel may be provided only if it meets spacing criteria, internal circulation is not feasible, and there is a necessity for the access.

g. If the category allows type D access, an additional type D access may be granted to a parcel if the necessity due to topography problems or ongoing agricultural activities is demonstrated. A change in use of the parcel of land serviced by the type D access requires a new permit and may require the access be closed if the location will not meet access category requirements for another type.

h. A secondary access for emergency fire services when required by local fire safety regulations may be permitted on all categories except for the categories interstate and freeway (I/F), expressway (E), and municipal expressway (ME) and across controlled access lines. Such emergency access may be permitted only if it is not feasible to provide the emergency access to a secondary roadway. A written explanation with references to local standards from an appropriate government safety official shall be included with the application. The access shall not be open for nonemergency uses and shall be maintained by the permittee as a closed access except during emergencies. Hidden pavement structures are acceptable

i. Access connections to government parcels will be treated the same as private access types based on volume with the exception of egress access connections used specifically for emergency response services such as fire stations.

112.5(2) Access types. Access connections are distinguished by the following four types of private access based on access connection traffic volume:

a. Type A is a private access connection with traffic volumes equal to or greater than 100 trips in a peak hour. Traffic volume estimates are to be based on a 20-year projection or the build-out of the development, whichever is greater.

b. Type B is a private access connection with traffic volumes between 11 and 99 trips in a peak hour. Traffic volume estimates are to be based on a 20-year projection or the build-out of the development, whichever is greater.

c. Type C is a private access connection with traffic volumes between 1 and 10 trips in a peak hour.

d. Type D is a private access connection with an AADT of less than one per day.

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112.5(3) Access categories for highways. Access categories are distinguished as follows:

a. The interstate and freeway (I/F) category applies to highways with full access control. Access to the roadway, when allowed, shall be provided by ramps. Direct access to the main roadway and all ramps is prohibited without exception.

b. The expressway (E) category applies to nonfreeway multilane highways outside municipal boundaries where the department has acquired the associated access rights. No access that has not already been authorized shall be permitted across existing access control lines. An access management plan is required to authorize a new public intersection. No new direct access connections will be permitted for utilities that have not been previously authorized.

c. The rural-600 (R-600) category applies to two-lane and multilane highways outside municipal boundaries that are on the Iowa commercial industrial network as most recently approved by the commission, or are where roadway traffic volume will be equal or greater than 3,000 AADT within 20 years. Access types A, B and C may be permitted where the applicant can prove necessity and the access has a minimum spacing distance of 600 feet from other connections. Access type D must meet sight distance requirements. Private access connections should not be permitted within the functional area of any public intersection. Public intersections should be located at survey section lines when feasible. Each full-movement access connection should serve as many properties and interests as possible to reduce the need for additional direct access to the highway. Preference shall be given to public intersections.

d. The rural safety and need (R-S/N) category applies to two-lane highways outside municipal boundaries that will not exceed 3,000 AADT within 20 years. This category includes frontage roads, service roads and access ways. All private access types may be permitted where the applicant can prove necessity and meet sight and spacing distance requirements. Private access connections should not be permitted within the functional area of any public intersection. Public intersections should be located at land survey section lines when feasible.

e. The municipal expressway (ME) category applies to nonfreeway multilane highways inside municipal boundaries where arterial performance is necessary to provide high mobility and through traffic capacity. In the absence of an access management plan, no private access shall be permitted that has not already been authorized. An access management plan is required to authorize a new public intersection and may only be allowed if the public roadway is adopted by the city. No access shall be permitted across a controlled access line.

f. The municipal-1000 (M-1000) category applies to important regional and intracity highways that are within a municipality. Designation of M-1000 shall include consideration of system continuity and preservation of a high level of mobility and through traffic capacity. The department recommends the installation of restrictive medians between full-movement intersections. Access to an M-1000 may be granted under the following conditions:

(1) All access types are eligible for a full-movement access connection at 1,320 feet (one-quarter mile) locations based on section lines where feasible, and these access connections may be restricted to right-in and right-out turns or directional left-in-only as access volumes increase. A minimum access spacing interval of 1,000 feet should only be permitted if there is a documented necessity. No access connection should be allowed within the functional area of a public intersection.

(2) Each full-movement location should serve as many properties and interests as possible to reduce the need for additional direct access to the highway. Preference shall be given to public intersections.

(3) All access types are eligible for limited movement connections at minimum spacing intervals of 600 feet if a restrictive median is present.

g. The municipal-600 (M-600) category applies to highways within municipalities that have been determined to have a need to maintain a moderate level of mobility and through traffic capacity. Minimum spacing for all access types is 600 feet.

h. The municipal-300 (M-300) category applies to highways within municipalities where a low level of mobility and through traffic capacity is acceptable. Minimum spacing for all access types is 300 feet.

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i. The municipal safety and need (M-S/N) category applies to highways within municipalities where motor vehicle mobility and through traffic capacity are low priorities. The granting of access and the determination of access connection locations shall be based only on safety and need.

112.5(4) Category revisions.

a. From time to time it may be necessary for the department to change an assigned access category because of changes in roadway conditions, traffic growth or highway reconstruction. Reassignment shall be consistent with subrule 112.5(3). A report shall be prepared presenting why the current category should not be used and the reasons for and benefits of making the category revision.

b. If the highway is identified as a future freeway or expressway, the department may suspend the issuance of new access permits.

c. If a highway utilizing at-grade intersections is intended to be improved to accommodate traffic growth or safety considerations, the access category of the future improvement shall be applied.

112.5(5) Interchange and intersection access control.

a. When it is necessary for an at-grade access connection to be near an interchange on an access category E or ME, the first access connection location will be determined by calculating the functional areas of the expressway ramp and the first at-grade access connection. The two functional areas shall not overlap. The functional area of the ramp shall be considered no less than 1,500 feet from the end of the taper. The first access should be a public intersection. Access turning movements may be restricted for operational reasons.

b. Access is prohibited without exception to all elevated structures and ramps on or connected to any highway.

c. When the interchange crossroad AADT will exceed 10,000 in the year, the first full-movement access connection should be at least 1,320 feet as measured from the ramp bifurcation point. A minimum of 1,000 feet may be allowed for a full-movement intersection if there is a proven necessity and no reasonable alternative. A restrictive median may be required between the ramps and the full-movement intersection. If the first full-movement intersection is at least 1,200 feet from the ramp bifurcation and a restrictive median is present, a right-in and right-out access may be permitted at a minimum of 600 feet from the ramp bifurcation. The ramp functional area should not overlap with the functional area of any access connection.

d. When the interchange crossroad AADT will be between 3,000 and 10,000 within 20 years, the first full movement should be at least 1,000 feet away from the ramp. All access types may have a restricted right-in and right-out access at a minimum of 600 feet from the ramp bifurcation point.

e. When the interchange crossroad AADT will not exceed 3,000 within 20 years, access public intersections and private access types A and B should be at least 600 feet away from the ramp bifurcation point. Types C and D should be at least 300 feet from the bifurcation point and may be subject to operational restrictions.

f. For any new interchange or interchange reconstruction, access rights should be acquired and extend a minimum of 600 feet away from the ramp bifurcation point. If the AADT will exceed 10,000 within 20 years, a minimum of 1,000 feet of access rights should be acquired.

g. Where a free-flow turning movement from a roadway or ramp merges onto another roadway, an analysis shall be completed to determine the functional area and the preferred placement of the first access connection. The functional area of the merge lane of the roadway and the functional area of the first access connection shall not overlap. Access rights shall be acquired along the identified functional area length.

h. An at-grade intersection shall be defined by the determination of its functional area. Access should not be allowed within this functional area. Access beyond the functional area remains subject to the requirements of the access category location standards.

i. When acquiring access rights as part of a highway project, the department may acquire access rights along intersecting public roadways to protect the operation of the intersection at the highway. Acquisition of access rights should extend a distance of 150 feet from the near edge of the highway traveled way. If the intersecting public roadway AADT is predicted to exceed 3,000 within 20 years, the department should acquire access rights for a distance of 300 feet from the near edge of the highway

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traveled way. The department may lengthen or shorten the distance of access rights required after considering the intersection functional area, traffic volumes, traffic operations, acquisition costs and other factors.

112.5(6) Access management plans and agreements.

a. Access management plans may be developed to determine how access will be managed on select sections of high-priority corridors, around freeway interchanges, and within municipalities and high-growth corridors. Each plan will apply access management techniques, identify acceptable traffic control features, and establish the necessary operational restrictions to ensure the long-term functional performance and safety of the highway. The scope of each access plan may vary depending on what is determined necessary by the parties of the agreement to manage current and predicted future highway conditions and local land use.

b. To apply an access management plan within a municipality, it must be adopted by joint agreement in accordance with Iowa Code sections 306.4(4) and 306A.7.

c. Highway projects and corridor plans may include access management techniques and improvements to bring a section of highway into conformance with its current access category without adopting an access management plan and agreement.

761—112.6(306A) Location and design. This rule sets criteria for the location and design of access connections to primary highways.

112.6(1) Each access connection authorized must be located and designed in accordance with this rule. Terms and conditions for location, design, construction and use of the access connection shall be established by permit.

112.6(2) The priority of the primary highway system is to provide highway corridors with the goal of maintaining traffic capacity by limiting disruptions to through traffic. Direct access from abutting land is therefore subordinate. Where an adjacent lower traffic volume road is available, the access should connect to that roadway.

112.6(3) Private access connections may only be considered when there is a reasonable necessity for the access and should be separated from other private access connections at a minimum distance equal to the sight distance at the posted speed. The burden of proving necessity is on the applicant.

112.6(4) An access connection must be consistent with the requirements of the assigned access category.

112.6(5) Access location considerations shall include traffic operations, public safety, sight distance, distance to other access locations, traffic speed and volumes, the design vehicle for the access and the allowable turning movements.

112.6(6) Restrictive medians may be installed and access connection turning movements may be restricted to right turns or directional left turns for operational reasons when determined necessary and at the sole discretion of the department.

112.6(7) Minimum design criteria may be used only when there is a proven and documented necessity that higher standards are not feasible at the specific site.

112.6(8) When there are access connections on opposite sides of the highway and left turns are allowed from both directions, the access connections should be opposite each other or have sufficient offset distance so as to prevent overlapping left turn maneuvers.

112.6(9) If the access connection requires a turn lane, the access connection should be located so the turn lane can be installed and no other access connections occur along the turn lane. An access should not be installed along a turn lane or taper.

112.6(10) Private access connections should not be located within the functional area of a public intersection.

112.6(11) All access connections must meet sight distance.

112.6(12) The access shall be designed to facilitate the movement of vehicles from the highway to prevent the queuing of vehicles on the roadway.

112.6(13) If a proposed access location does not comply with this chapter, the access permit shall be denied.

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112.6(14) If the department determines that the literal application of these rules to a specific situation will create or result in an unsafe situation or an unreasonable design, the department shall use sound engineering practices to determine the appropriate location and design for the specific situation. The department shall include justification for the design in the permit or the highway project file, as applicable.

761—112.7(306A) Access construction. This rule sets criteria for the construction of access connections.

112.7(1) Overall stipulations.

a. Unless part of a public construction project, the construction of the access and its appurtenances as stated in the terms and conditions of the permit shall be completed at the expense of the permittee.

b. The access connection shall be constructed according to the department's standards and specifications. The applicant will be provided with the necessary standards and specifications with the issued permit.

c. The access shall be completed in an expeditious and safe manner and shall be finished within 30 days from initiation of construction within the highway right-of-way unless otherwise stated on the access permit.

d. The department may restrict work within the highway right-of-way, restrict lane closure periods and require preapproval of all aspects of construction phasing and traffic control. The permittee shall provide work zone traffic control at all times during access construction. Work in the highway right-of-way is not allowed on legal holidays, at night, during peak traffic hours or during adverse weather conditions without specific department permission.

e. Any damage to the primary highway, appurtenances or any utility or any permitted private encroachment shall be repaired immediately at the direction of the affected owner. All costs associated with repair or relocation will be borne by the permittee. If a survey monument is modified or damaged, repair and replacement shall be done at the direction of the owner of the monument.

f. The relocation, removal or modification of any traffic control device or public or private utilities shall be accomplished by the permittee without cost to the department or utility and at the direction of the department or utility owner. A department utility permit shall be obtained for utility work within highway right-of-way.

g. An access permit may require installation of traffic control features or devices, but such requirements do not create any type of private interest in such features. Traffic control features and devices in the right-of-way, such as traffic signals, channelizing islands, medians, median openings, and turn lanes are operational and safety characteristics of the highway and are not means of private access. The department may install, remove or modify any traffic control feature or device in the right-of-way to promote traffic safety or efficient traffic operations.

h. The department is not obligated to permit or approve any connection, traffic control feature or device or any other site-related improvement that has been specified in a development approval process separate from the permitting criteria and approval process described in this chapter.

i. If any construction element of the permitted access fails within three years following construction, the permittee shall be responsible for all repairs. Failure to make such repairs may result in suspension of the permit and closure of the access.

j. The property owner or occupants are responsible for maintaining the access. Where the access connection has a paved surface, the property owner or occupants are responsible for maintaining the access connection from the paved edge of the roadway to the right-of-way line. Where the access connection does not have a paved surface, the property owner or occupants are responsible for maintaining the access from the outer shoulder line of the roadway to the right-of-way line. The department is not responsible for the removal of debris, snow or ice on the access, including debris deposited by the department during maintenance operations.

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k. Drainage structures located along the highway are maintained by the department except for concrete box culverts and bridges constructed by the property owner for access to the property, which shall be maintained by the property owner or occupants.

112.7(2) Temporary access.

a. When an access is needed in temporary situations for a limited period of time, a temporary access connection may be allowed, but it is subject to special stipulations as determined by the department.

b. The location of the temporary access shall comply with all safety and sight distance requirements.

c. Temporary access shall be authorized only for a specified period of time. In no event shall the period of the permit extend beyond 24 consecutive months.

d. The permittee is responsible for all costs incurred, including removal of the access and restoration of the right-of-way at the end of the permit period.

e. An application for temporary access is not needed if the temporary access is for department purposes and has been approved in department internal documents and, when required, by the Federal Highway Administration.

761—112.8(306A) Drainage requirements for access connection approvals.

112.8(1) The permittee shall provide, at the permittee's expense, drainage structures for access connections that will become an integral part of the existing drainage system.

112.8(2) The type, size and condition of the drainage structures provided by the permittee shall meet the requirements of the department in unincorporated areas and the requirements of both the department and the municipality in incorporated areas. The design and construction of drainage structures for access shall not adversely impact the highway right-of-way, a storm sewer system or a drainage-way.

112.8(3) The construction of an access shall not impair the drainage or stability of the highway subgrade, nor shall it cause water to flow across the roadway pavement or pond on the shoulders or in the ditch or result in erosion within the highway right-of-way.

112.8(4) Drainage systems designed and constructed by the department within the highway right-of-way are designed to serve the drainage needs of the highway and adjoining properties based on the basin conditions at the time of the design of the highway.

761—112.9(306A,318) Violations at access connections.

112.9(1) It is the responsibility of the property owner and permittee to ensure that the access is not in violation of this chapter or the terms and conditions of the permit.

112.9(2) When an authorized access is constructed or used in violation of this chapter or the terms and conditions of the permit, the department may suspend the access permit and may order the immediate closure of the access. Notwithstanding the preceding sentence or any other provision of this chapter, the department may proceed as authorized under Iowa Code chapter 318 at any time.

These rules are intended to implement Iowa Code chapter 17A and sections 306.19, 306A.1 to 306A.8, 307.12, 318.3, 318.5 and 318.8.

ITEM 2. Amend rule **761—150.1(306)**, definition of "Freeway," as follows:

"Freeway" means a ~~primary highway constructed with Priority I~~ fully controlled access control primary highway. The rights of ingress and egress from abutting properties have been legally eliminated by the department. Permanent access to the freeway is allowed only at interchange locations. For the purpose of highway lighting, "freeway" means a ~~primary highway constructed with Priority I access control for a length of~~ a freeway is generally five miles or greater more miles in length.

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 Jeff Plagge, and Auditor of State Rob Sand has established today the following rates of interest for public obligations and special assessments. The usury rate for July is 5.00%.

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 9, 2022, 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 .10%
One year to 397 days	Minimum .25%
More than 397 days	Minimum .30%

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.

USURY

In accordance with the provisions of Iowa Code section 535.2, subsection 3, paragraph “a,” the Superintendent of Banking has determined that the maximum lawful rate of interest shall be:

USURY(cont'd)

August 1, 2021 — August 31, 2021	3.50%
September 1, 2021 — September 30, 2021	3.25%
October 1, 2021 — October 31, 2021	3.25%
November 1, 2021 — November 30, 2021	3.25%
December 1, 2021 — December 31, 2021	3.50%
January 1, 2022 — January 31, 2022	3.50%
February 1, 2022 — February 28, 2022	3.50%
March 1, 2022 — March 31, 2022	3.75%
April 1, 2022 — April 30, 2022	4.00%
May 1, 2022 — May 31, 2022	4.25%
June 1, 2022 — June 30, 2022	4.75%
July 1, 2022 — July 31, 2022	5.00%
August 1, 2022 — August 31, 2022	5.25%

ARC 6431C

CORRECTIONS DEPARTMENT[201]

Adopted and Filed

Rule making related to five-year review of rules

The Corrections Department hereby amends Chapter 1, “Departmental Organization and Procedures,” and Chapter 20, “Institutions Administration,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 904.108.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 904.108.

Purpose and Summary

All of the Department’s rules were reviewed as part of the comprehensive five-year review required under Iowa Code section 17A.7. These amendments are designed to eliminate outdated or redundant rules, update Iowa Administrative Code language and eliminate any rules that are inconsistent or incompatible with statutes or other rules.

The amendments to Chapter 1 reflect updates to the Department’s internal structure, such as prison telephone numbers and staff job responsibilities.

The amendments to Chapter 20 include:

- Removing advertising brochures and flyers from the list of authorized publications that can be received by an incarcerated individual;
- Replacing the words “the moderate intensity family violence prevention program” with “participation in evidence-based programs” to refer to programs that certain incarcerated individuals must complete before visitation;
- Replacing the words “send a copy of the removal form to the incarcerated individual” with “notify the incarcerated individual of the completed removal” in reference to when an incarcerated individual requests a visitor be removed from the individual’s visiting list;
- Replacing the words “upon entrance to the institution” with “before the start of the visit” to reflect that both in-person and video visits occur;
- Clarifying that an incarcerated individual’s mail sent to and received from the Office of Ombudsman shall be delivered unopened;
- Clarifying the name of the Iowa Department of Corrections account where money orders and cashier’s checks from the public must be sent for deposit into an incarcerated individual’s account;
- Clarifying that publications may be purchased by a third party or an incarcerated individual;
- Clarifying that the warden’s designee may accept donations to the prison; and
- Changing the time frame from quarterly to annually for the Director to review incarcerated individual telephone commission expenditure requests with the Board of Corrections.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on May 18, 2022, as **ARC 6324C**. A public hearing was scheduled for June 7, 2022, pending a request from the public that one be held. The hearing was canceled without further notice since no request was received. Two public comments were received, but they concerned chapters other than the ones covered in this rule making.

No substantive changes have been made from the Notice. Since publication of the Notice, however, Items 12 and 13 have been combined at the direction of the Publications Editing Office to ensure accurate

CORRECTIONS DEPARTMENT[201](cont'd)

engrossment of the amendments to rule 201—20.4(904). The subsequent items have been renumbered accordingly.

Adoption of Rule Making

This rule making was adopted by the Department on July 8, 2022.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 201—Chapter 7.

Review by Administrative Rules Review Committee

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

Effective Date

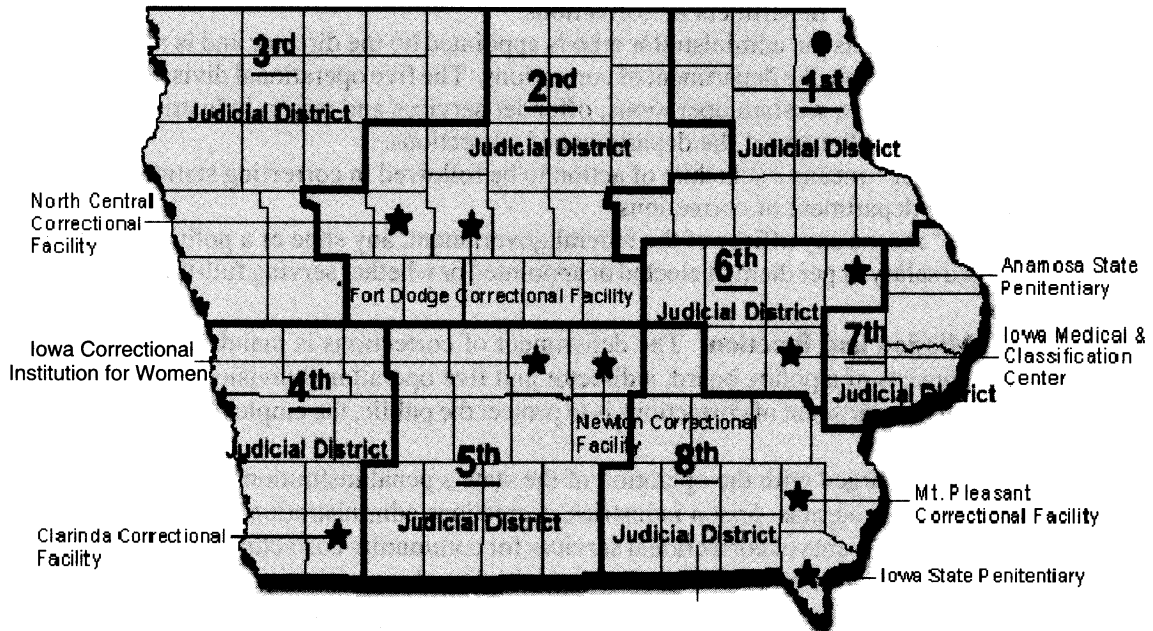
This rule making will become effective on August 31, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 1.3(3) as follows:

1.3(3) Contact information. Contact information for correctional institutions and judicial district departments of correctional services and other offices located outside the principal headquarters is listed below and may also be found on the department's website, which is listed in rule 201—1.4(904). The following map provides a general overview of judicial district department of correctional services and correctional institution locations.

Department of Corrections Institutions
and
Judicial District Departments of Correctional Services



Anamosa State Penitentiary
406 North High Street
Anamosa, IA 52205
(319)462-3504
(319)462-4962 Fax

Iowa Medical and Classification Center
2700 Coral Ridge Avenue
Coralville, IA 52241
(319)626-2391
(319)626-2141 Fax

Mt. Pleasant Correctional Facility
1200 East Washington
Mt. Pleasant, IA 52641
(319)385-9511
(319)385-8828 Fax

Iowa State Penitentiary
2111 330th Avenue, P.O. Box 316
Fort Madison, IA 52627
(319)372-5432
(319)372-6967 Fax

Newton Correctional Facility
307 S. 60th Avenue W, P.O. Box 218
Newton, IA 50208
(641)792-7552
(641)791-1683 Fax

Fort Dodge Correctional Facility
1550 L Street
Fort Dodge, IA 50501-5767
(515)574-4700
(515)574-4707 Fax

North Central Correctional Facility
313 Lanedale
Rockwell City, IA 50579
(712)297-7521
(712)297-7875 Fax

Iowa Correctional Institution for Women
420 Mill Street SW
Mitchellville, IA 50169
(515)967-4236 (515)725-5042
(515)967-5347 (515)725-5015 Fax

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Clarinda Correctional Facility
 2000 N. 16th Street
 Clarinda, IA 51362
 (712)542-5634/5635 (712)695-7140
 (712)542-4844 (712)695-7130 Fax

First Judicial District, DCS
 314 East Sixth Street, P.O. Box 4030
 Waterloo, IA 50704-4030
 (319)236-9626
 (319)291-3947 Fax

Second Judicial District, DCS
 509 Main Street, Suite 200
 Ames, IA 50010
 (515)232-1511
 (515)232-9453 Fax

Third Judicial District, DCS
 515 Water Street
 Sioux City, IA 51103
 (712)252-0590
 (712)252-0634 Fax

Fourth Judicial District, DCS
 810 South Tenth Street
 Council Bluffs, IA 51501
 (712)325-4943
 (712)325-0312 Fax

Fifth Judicial District, DCS
 1000 Washington Street
 Des Moines, IA 50314
 (515)242-6611
 (515)242-6656 Fax

Sixth Judicial District, DCS
 951 29th Ave. SW
 Cedar Rapids, IA 52404
 (319)398-3675
 (319)398-3684 Fax

Seventh Judicial District, DCS
 605 Main Street
 Davenport, IA 52803-5244
 (563)322-7986
 (563)324-2063 Fax

Eighth Judicial District, DCS
 1805 West Jefferson, P.O. Box 1060
 Fairfield, IA 52556-1060
 (641)472-4242
 (641)472-9966 Fax

ITEM 2. Amend rule 201—1.4(904) as follows:

201—1.4(904) Internet website. The department's Internet home page is located at www.doc.iowa.gov
doc.iowa.gov.

ITEM 3. Amend paragraph **1.8(1)“b”** as follows:

b. The deputy director of institutional operations is also responsible for the following:

- (1) Classification.
- (2) Education.
- (3) Safety officers.
- (4) Records.
- (5) Transfers.
- (6) Security operations.
 1. Investigations.
 2. Reserved.

ITEM 4. Amend subrule 1.8(6) as follows:

1.8(6) The general counsel/~~inspector general~~ shall be responsible for the following:

- a.* Legal services.

CORRECTIONS DEPARTMENT[201](cont'd)

- b. Coordination of court orders.
- c. ~~Investigations~~ Public records.
- d. ~~EEO/AA~~ Civil rights.
- e. Administrative law judges.
- f. Jail inspections.
- g. ~~Legislative program.~~
- ~~h. g.~~ Administrative rules.

ITEM 5. Amend subrule 1.8(7) as follows:

1.8(7) The director of media and public relations shall be responsible for the following:

- a. Providing public information to constituency groups and the media.
- b. Facilitating internal communications in the department.
- c. Legislative program.

ITEM 6. Amend rule 201—20.1(904) as follows:

201—20.1(904) Application of rules. The rules in this chapter apply to all adult correctional institutions unless otherwise stated. The institutions covered by these rules are the Iowa state penitentiary, Fort Madison, the Anamosa state penitentiary, Anamosa, the Iowa correctional institution for women, Mitchellville, the Iowa medical and classification center, ~~Oakdale~~ Coralville, the Newton correctional facility, Newton, the Mt. Pleasant correctional facility, Mt. Pleasant, the Clarinda correctional facility, Clarinda, the north central correctional facility, Rockwell City, and the Fort Dodge correctional facility, Fort Dodge.

This rule is intended to implement Iowa Code section 904.102.

ITEM 7. Amend rule **201—20.2(904)**, definition of “Publication,” as follows:

“*Publication*” means a book, booklet, pamphlet, or similar document, or a single issue of a magazine, periodical, newsletter, newspaper, plus such other materials addressed to a specific incarcerated individual, such as ~~advertising brochures, flyers, and catalogs.~~

ITEM 8. Amend subparagraph **20.3(6)“d”(1)** as follows:

(1) Applicants may appeal to the warden or designee in writing. An appeal by an applicant who is the victim of a sex offense, or who is the victim’s family member, and is seeking to visit the perpetrator of the crime shall be reviewed in consultation with the department sex offender treatment director or the institution’s treatment director for ~~the moderate intensity family violence prevention program participation in evidence-based programs.~~

ITEM 9. Amend subrule 20.3(7) as follows:

20.3(7) Removal from visiting list. If an incarcerated individual wishes to have a visitor removed from the incarcerated individual’s visiting list, the incarcerated individual shall complete the Removal of Visitor form contained in department policy OP-MTV-04 and send it to the central visiting authority. Upon receipt of the removal request, the central visiting authority shall respond to the request within seven business days and ~~send a copy of the removal form to the incarcerated individual~~ notify the incarcerated individual of the completed removal. Once a visitor has been removed from a visiting list, six months must elapse before reapplication by the removed visitor.

ITEM 10. Amend subrule 20.3(9) as follows:

20.3(9) Identification. All visitors shall present proper identification ~~upon entrance to the institution before the start of the visit.~~ Photo identification is preferred, but any identification presented shall identify personal characteristics, such as color of hair and eyes, height, weight, and birth date.

- a. Signature cards may be required from visitors.
- b. All visitors may be required to be photographed for future identification purposes only.

ITEM 11. Amend subrule 20.3(10) as follows:

20.3(10) Special visitors.

a. *Law enforcement.* Division of criminal investigation agents, Federal Bureau of Investigation agents, and law enforcement officials shall present proof of identity upon entrance to the institution.

CORRECTIONS DEPARTMENT[201](cont'd)

b. Attorneys. Attorneys must complete an initial visitor application form to visit an incarcerated individual; however, this initial application shall apply to multiple visiting lists. After initial approval is established, attorneys must contact the central visiting authority at (319)385-9511 to be added to the visiting lists of additional incarcerated individuals. Background checks are not required, and attorneys shall not be counted as a friend on an incarcerated individual's visiting list as set forth in 20.3(3) "b."

Attorneys shall present proof of identity ~~upon entrance to the institution~~ before the start of the visit. The incarcerated individual must express a desire to visit with an attorney before the attorney will be admitted. Attorney visits shall be during normal visiting hours unless a special visit has been requested by the incarcerated individual and approved by the warden or designee prior to the visit.

An attorney testing positive by an electronic detection device may be required to visit without direct contact.

c. Ministers. Ministers must complete an initial visitor application form to visit an incarcerated individual; however, this initial application shall apply to multiple visiting lists. After initial approval is established, ministers must contact the central visiting authority at (319)385-9511 to be added to the visiting lists of additional incarcerated individuals. Background checks are required. Ministers shall not be counted as a friend on an incarcerated individual's visiting list as set forth in 20.3(3) "b."

Ministers shall present proof of identity ~~upon entrance to the institution~~ before the start of the visit. The incarcerated individual must express a desire to visit with a minister before the minister will be admitted. Minister visits shall be during normal visiting hours unless a special visit has been requested by the incarcerated individual and approved by the warden or designee prior to the visit.

A minister testing positive by an electronic detection device may be required to visit without direct contact.

ITEM 12. Amend rule 201—20.4(904) as follows:

201—20.4(2C,904) Mail. Constructive, unlimited correspondence with family, friends, and community sources will be encouraged and facilitated. Incarcerated individuals have the responsibility in the use of correspondence to be truthful and honest. Institutions have the responsibility to maintain a safe, secure, and orderly procedure for use of the mail by an incarcerated individual. Mail is additionally governed by the provisions of department of corrections policy OP-MTV-01.

20.4(1) and 20.4(2) No change.

20.4(3) General.

a. Pursuant to Iowa Code chapter 2C, mail addressed to and received from the ombudsman office shall be delivered unopened.

b. to x. No change.

This rule is intended to implement Iowa Code section 2C.14.

ITEM 13. Amend rule 201—20.5(904) as follows:

201—20.5(904) Money orders, cashier's checks, and electronic funds transfers for incarcerated individuals. An individual may deposit funds in an incarcerated individual's account by money order, cashier's check, or electronic funds transfer. Personal checks and cash will not be accepted. Only money orders and cashier's checks will be accepted for deposit into an incarcerated individual's account by mail. Money orders and cashier's checks must be made payable to the Iowa Department of Corrections ~~Incarcerated Individual~~ Offender Fiduciary Account (IDOC ~~HEA OFA~~) and sent to: Fort Dodge Correctional Facility, 1550 L Street, Suite B, Fort Dodge, Iowa 50501, and must include the incarcerated individual's name and ID number and the sender's name and complete address. Funds will also be accepted via electronic funds transfers from authorized vendors. An incarcerated individual's suspected abuse of requests for money from the public may be cause for limits or restrictions on the amounts of money which can be received and from whom money can be received.

This rule is intended to implement Iowa Code section 904.506.

CORRECTIONS DEPARTMENT[201](cont'd)

ITEM 14. Amend subrule 20.6(2) as follows:

20.6(2) Publications include any periodical, newspaper, book, pamphlet, magazine, newsletter, or similar material published by any individual, organization, company, or corporation, and made available for a commercial purpose. ~~All publications~~ Publications may be purchased by a third party or an incarcerated individual and shall be unused and sent directly from an approved publisher or bookstore which does mail order business. Any exceptions must be authorized by the warden. No publication will be denied solely on the basis of its appeal to a particular ethnic, racial, religious, or political group. The quantity of printed materials, as with other personal property, ~~will~~ shall be controlled for safety and security reasons.

ITEM 15. Amend paragraph **20.6(5)“k”** as follows:

k. Is a ~~pamphlet~~, catalog, or other publication whose purpose is primarily or significantly to sell items or materials that are expressly prohibited inside any of the department institutions. The warden can make exceptions for materials that serve reentry efforts.

ITEM 16. Adopt the following new implementation sentence in rule **201—20.6(904)**:
This rule is intended to implement Iowa Code section 904.108(1)“*k.*”

ITEM 17. Adopt the following new implementation sentence in rule **201—20.7(904)**:
This rule is intended to implement Iowa Code section 904.108(1)“*k.*”

ITEM 18. Adopt the following new implementation sentence in rule **201—20.8(904)**:
This rule is intended to implement Iowa Code sections 904.108(1)“*k.*” and 904.512.

ITEM 19. Amend rule 201—20.9(904) as follows:

201—20.9(904) Donations. Donations of money, books, games, recreation equipment or other such gifts shall be made directly to the warden or the warden’s designee. The warden or the warden’s designee shall evaluate the donation in terms of the nature of the contribution to the institution program. The warden or the warden’s designee is responsible for accepting the donation and reporting the gift to the institutional deputy director on a monthly basis.

This rule is intended to implement Iowa Code section 904.113.

ITEM 20. Adopt the following new implementation sentence in rule **201—20.10(904)**:
This rule is intended to implement Iowa Code section 904.108(6).

ITEM 21. Adopt the following new implementation sentence in rule **201—20.12(904)**:
This rule is intended to implement Iowa Code section 904.108(2).

ITEM 22. Amend rule 201—20.15(910A) as follows:

201—20.15(910A 915) Victim notification.

20.15(1) to 20.15(7) No change.

This rule is intended to implement Iowa Code ~~section 910A.9~~ chapter 915.

ITEM 23. Amend subrule 20.20(4) as follows:

20.20(4) Review and approval of expenditures. The deputy director of operations and the financial manager of administration will review the proposals for a ~~quarterly~~ an annual presentation by the director to the corrections board for approval. The director will notify the chairpersons and ranking members of the justice system’s appropriations subcommittee of the proposals prior to the corrections board approval. All expenditures and encumbrances shall require prior approval from the corrections board and the deputy director of operations. Institutions shall not be allowed to encumber or expend funds without

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approval. Revenues generated by telephone commissions at each institution shall be used to determine the availability of funds for each project.

[Filed 7/8/22, effective 8/31/22]

[Published 7/27/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/27/22.

ARC 6416C

PHARMACY BOARD[657]

Adopted and Filed

Rule making related to remote supervision of pharmacy technicians

The Board of Pharmacy hereby amends Chapter 3, "Pharmacy Technicians," and Chapter 6, "General Pharmacy Practice," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 147.76 and 155A.6A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 147.76 and 155A.6A.

Purpose and Summary

These amendments provide for pharmacist delegation of technical functions relating to prescription processing activities (e.g., data entry) under specific conditions to an Iowa-registered certified pharmacy technician who is performing the delegated functions at a location other than where the supervising pharmacist is physically located. The authorized delegation will allow pharmacies to continue such remote activities initiated under the pandemic-related public health emergency under conditions that require:

- Adequate security and supervision to be maintained at all times to prevent unauthorized access to, and unauthorized storage/transfer of, confidential patient information or patient records;
- The supervising pharmacist to have real-time access to the prescription processing system that the technician is using or the patient records that the technician is processing;
- The technician to have access to the supervising pharmacist via a real-time communication mechanism; and
- The prescription processing system to be capable of documenting the functions performed by the technician.

These amendments also authorize a pharmacist to provide patient counseling via real-time interactive communication when the pharmacist is at a location other than the licensed pharmacy.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on April 6, 2022, as **ARC 6279C**. A public hearing was held on April 27, 2022, at 10 a.m. in the Health Professions Board Room, 400 S.W. 8th Street, Suite H, Des Moines, Iowa, and via Zoom.

Eleven individuals attended the hearing with one participant asking a question but providing no comment on the proposed amendments.

One written comment requested clarification if the Board's expectation is that the technician is located in the state while engaging in delegated supervised functions. Two written comments suggested removal of the phrase "insurance processing" from the list of examples of functions that may be completed

PHARMACY BOARD[657](cont'd)

remotely by a technician because of concern that it would imply that the function may only be performed by a technician.

While the Board determined no clarification was needed to require that a technician be physically located in the state provided that the technician is Iowa-registered and supervised in accordance with the rule, the Board did acknowledge the potential confusion that could result from the phrase “insurance processing” and, in response, removed the phrase from subrule 3.21(2).

Adoption of Rule Making

This rule making was adopted by the Board on June 28, 2022.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on August 31, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend rule 657—3.5(155A), introductory paragraph, as follows:

657—3.5(155A) Certification of pharmacy technicians. Except as provided in subrule 3.5(1), all pharmacy technicians shall be required to be nationally certified as provided by this rule. National certification acquired through successful completion of any NCCA-accredited pharmacy technician certification program and examination fulfills the requirement for national certification. National certification does not replace the need for licensed pharmacist control over the performance of delegated functions, nor does national certification exempt the pharmacy technician from registration pursuant to these rules. A certified pharmacy technician shall maintain the technician’s national certification, in addition to the technician’s Iowa registration, during any period of employment in or for an Iowa pharmacy as a certified pharmacy technician.

ITEM 2. Amend rule 657—3.21(155A) as follows:

657—3.21(155A) Delegation of functions.

3.21(1) Policies and procedures. Pursuant to established policies and procedures and the supervising pharmacist’s professional judgment, a an Iowa-licensed supervising pharmacist may delegate any technical or nontechnical functions in the operation of the pharmacy, except those which are prohibited pursuant to rule 657—3.23(155A), to an appropriately trained and registered Iowa-registered

PHARMACY BOARD[657](cont'd)

pharmacy technician, ~~but only if the pharmacist is on site and available to supervise the pharmacy technician when delegated functions are performed, except as provided in rule 657—6.7(124,155A) or 657—7.6(155A), as appropriate, or as provided for telepharmacy in 657—Chapter 13.~~

3.21(2) Remote supervision. A supervising pharmacist may delegate technical functions relating to prescription processing (e.g., data entry) to a certified pharmacy technician who is performing the delegated functions at a location that is not a licensed pharmacy only if the following conditions are met:

a. Adequate security and supervision are maintained at all times to prevent unauthorized access to, and unauthorized storage/transfer of, confidential patient information or patient records;

b. The supervising pharmacist has real-time access to the prescription processing system which the certified pharmacy technician is using or the patient record which the certified pharmacy technician is processing;

c. The supervising pharmacist is available to respond to certified pharmacy technician questions via a real-time communication mechanism at all times when delegated functions are being performed; and

d. The pharmacy's prescription processing system is capable of documenting the functions performed by the certified pharmacy technician.

3.21(3) Pharmacist final verification required. Except as provided for an approved technician product verification program pursuant to 657—Chapter 40, the pharmacist shall provide and document the final verification for the accuracy, validity, completeness, and appropriateness of the patient's prescription or medication order prior to the delivery of the medication to the patient or the patient's representative.

3.21(4) Further delegation prohibited. A pharmacy technician shall not delegate technical functions to a pharmacy support person.

ITEM 3. Renumber subrules **6.14(4)** to **6.14(6)** as **6.14(5)** to **6.14(7)**.

ITEM 4. Adopt the following **new** subrule 6.14(4):

6.14(4) Remote counseling. Patient counseling that is provided by the pharmacy via a pharmacist who is at a location other than the licensed pharmacy shall be provided via a real-time interactive communication mechanism.

[Filed 6/30/22, effective 8/31/22]

[Published 7/27/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/27/22.

ARC 6417C

PHARMACY BOARD[657]

Adopted and Filed

Rule making related to pharmacy license changes and five-year review of rules

The Board of Pharmacy hereby amends Chapter 8, "Universal Practice Standards," and Chapter 19, "Nonresident Pharmacy Practice," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 155A.13 and 155A.13A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 155A.13 and 155A.13A and 2022 Iowa Acts, House File 2169.

PHARMACY BOARD[657](cont'd)

Purpose and Summary

These amendments are, in part, in response to an overall five-year review of Chapter 19 as required in Iowa Code section 17A.7(2). The amendments provide for conforming edits, the modification of the handling of ownership changes for resident and nonresident pharmacies, a requirement that nonresident pharmacies that directly dispense to Iowa patients provide evidence of a toll-free telephone number with access to a pharmacist who has access to the patient's records during the pharmacy's regular business hours, and the process by which a pharmacy can temporarily relocate pharmacy operations in response to an exceptional circumstance or disaster rendering the pharmacy unsafe.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on April 6, 2022, as **ARC 6281C**. A public hearing was held on April 27, 2022, at 10:30 a.m. in the Health Professions Board Room, 400 S.W. 8th Street, Suite H, Des Moines, Iowa, and via Zoom.

Five individuals attended the public hearing with one comment provided by the Iowa Pharmacy Association suggesting the Board retain the existing language relating to "majority ownership" changes.

One written comment requested clarification on whether the Board intended "days" to mean calendar or business days in Item 4.

The amendment seeks to align handling of license changes resulting from a majority ownership change with that of the federal Drug Enforcement Administration and to alleviate the burden on pharmacies with such changes (e.g., renegotiating third-party contracts, wholesale drug suppliers, the 340B Drug Pricing Program, etc.).

No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on June 28, 2022.

Fiscal Impact

This rule making has minimal fiscal impact to the State of Iowa. As a result of the removal of the language that states a change to the majority ownership of a pharmacy constitutes an ownership change, the Board anticipates processing 20 fewer applications annually, resulting in a reduction in licensing fees of \$2,700.

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on August 31, 2022.

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The following rule-making actions are adopted:

ITEM 1. Amend paragraphs **8.35(6)“b”** and **“c”** as follows:

b. Location. A Except as provided in subrule 8.35(10) for a temporary relocation due to an exceptional circumstance, a change of pharmacy location shall require submission of a pharmacy license application and appropriate fee prior to the change of location. A pharmacy undergoing a change in location is required to notify patients of the change in accordance with paragraph 8.35(7)“d.” A change of pharmacy location in Iowa may require an on-site inspection of the new location as provided in subrule 8.35(4).

c. Ownership. A change in ownership of a pharmacy shall require submission of a pharmacy license application and appropriate fee prior to the change in ownership. A change of ownership occurs when the owner listed on the pharmacy’s most recent application changes ~~or when there is a change affecting the majority ownership interest of the owner listed on the pharmacy’s most recent pharmacy application.~~ A pharmacy undergoing a change in ownership is required to notify the pharmacist in charge and patients of the change in accordance with subrule 8.35(7). A change of ownership effectively consists of closing a pharmacy and opening a new pharmacy.

ITEM 2. Adopt the following **new** subrule 8.35(10):

8.35(10) Emergency temporary location changes. In response to a proclamation of disaster emergency or in the event of a natural or man-made disaster, fire, or other occurrence which results in sufficient damage to a pharmacy location as to render it unsafe to operate, a pharmacy may relocate to a temporary or mobile location only as provided herein.

a. Within one business day of the damage to the pharmacy rendering it unsafe, the pharmacy shall provide notice to the board of its intent to temporarily relocate pharmacy operations and provide the address of the temporary or mobile location.

b. A board compliance officer shall conduct an on-site inspection of the temporary or mobile location within five business days of the relocation.

c. A pharmacy may operate from the temporary or mobile location for no more than six months. If the pharmacy is not able to return to the original location within six months, the pharmacy shall submit an application and fee pursuant to paragraph 8.35(6)“b” prior to the expiration of the six-month temporary relocation period.

d. A pharmacy shall notify the board of its intent to return pharmacy operations to the original location at least five business days in advance of its return.

e. A board compliance officer shall conduct an on-site inspection of the original location prior to the return of pharmacy operations.

ITEM 3. Amend rule **657—19.1(155A)**, definition of “Nonresident pharmacy,” as follows:

“Nonresident pharmacy” means a pharmacy, including an Internet-based pharmacy, located outside the state of Iowa that delivers, dispenses, or distributes, by any method, prescription drugs, devices, or pharmacy services to or intended for an ultimate user physically located in this state, including a pharmacy which engages in central fill or central processing functions as described in 657—Chapter 18 on behalf of a pharmacy located in Iowa.

ITEM 4. Adopt the following **new** paragraph **19.2(4)“d”**:

d. Ownership. A change of ownership of a pharmacy shall require submission of a pharmacy license application and fee within ten days after issuance by the home state regulatory authority of a license under the new ownership or within ten days of the change if the home state does not require issuance of a new license for a change of ownership. A change of ownership occurs when the owner listed on the pharmacy’s most recent application changes. A pharmacy undergoing a change in ownership is required to notify the pharmacist in charge and patients of the change in accordance with subrule 8.35(7). A change of ownership effectively consists of closing a pharmacy and opening a new pharmacy.

ITEM 5. Adopt the following **new** subrule 19.2(6):

19.2(6) Access to pharmacist via toll-free telephone number. Each nonresident pharmacy that dispenses or proposes to dispense any prescription drug or device directly to a patient located in

PHARMACY BOARD[657](cont'd)

Iowa shall provide on its application for nonresident pharmacy licensure evidence of labeling which provides a toll-free telephone number for patients to access a pharmacist who has access to the patient's medication record during the pharmacy's regular business hours.

ITEM 6. Amend rule 657—19.3(155A), introductory paragraph, as follows:

657—19.3(155A) Registered pharmacist in charge. The permanent pharmacist in charge of the nonresident pharmacy shall be designated as such on the nonresident pharmacy license application. ~~Beginning January 1, 2018~~ Unless currently licensed in Iowa, the pharmacist in charge shall be registered with the board. The pharmacist in charge shall submit a completed application and a registration fee of \$75. The registration shall expire on December 31 following the date of issuance of the registration. An initial registration issued between November 1 and December 31 shall not require renewal until the following calendar year.

[Filed 6/30/22, effective 8/31/22]

[Published 7/27/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/27/22.

ARC 6418C

PHARMACY BOARD[657]

Adopted and Filed

Rule making related to precursor substances

The Board of Pharmacy hereby amends Chapter 12, "Precursor Substances," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 124B.2(2).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 124B.2(2).

Purpose and Summary

This amendment temporarily amends Iowa Code section 124B.2(1) to add one chemical as a precursor substance in response to similar action taken by the federal Drug Enforcement Administration.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on April 6, 2022, as **ARC 6280C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on June 28, 2022.

Fiscal Impact

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

Jobs Impact

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

PHARMACY BOARD[657](cont'd)

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on August 31, 2022.

The following rule-making action is adopted:

Amend subrule 12.1(1) as follows:

12.1(1) Amend Iowa Code section 124B.2(1) by adding the following new paragraphs:

ae. to *ag.* No change.

ah. Methyl alpha-phenylacetoacetate (other names: MAPA; methyl 3-oxo-2-phenylbutanoate) and its optical isomers.

[Filed 6/30/22, effective 8/31/22]

[Published 7/27/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/27/22.