



# IOWA ADMINISTRATIVE BULLETIN

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## PREFACE

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

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

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

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

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Publications Editing Office (Administrative Code)

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### CITATION of Administrative Rules

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

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

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

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

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

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

## Schedule for Rule Making 2020

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

### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
5	Friday, August 7, 2020	August 26, 2020
6	Wednesday, August 19, 2020	September 9, 2020
7	Friday, September 4, 2020	September 23, 2020

**PLEASE NOTE:**

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

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

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

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

The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, August 11, 2020, at 9 a.m. in Room 103, State Capitol, Des Moines, Iowa. Instructions for telephonic participation can be found here: [www.legis.iowa.gov/docs/publications/ID/1139806.pdf](http://www.legis.iowa.gov/docs/publications/ID/1139806.pdf). For more information, contact Jack Ewing at [Jack.Ewing@legis.iowa.gov](mailto:Jack.Ewing@legis.iowa.gov). The following rules will be reviewed:

#### **AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]**

Bulk dry animal nutrients licenses, 49.2 Filed **ARC 5118C**..... 7/29/20  
 National Institute of Standards and Technology (NIST) Handbooks 44, 130, and  
 133—adoption by reference, 85.39 Notice **ARC 5108C**..... 7/29/20

#### **ALCOHOLIC BEVERAGES DIVISION[185]**

COMMERCE DEPARTMENT[181]“umbrella”

Filling and selling of beer and wine in a container other than the original container, 4.6, 4.11  
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 Personal importation of alcoholic liquor, wine, and beer, 9.1, 9.2 Notice **ARC 5078C** ..... 7/15/20

#### **BANKING DIVISION[187]**

COMMERCE DEPARTMENT[181]“umbrella”

Regulated loan interest rates, 15.13(3) Filed **ARC 5090C**..... 7/15/20  
 Licensing sanction prohibition for student loan debt repayment default or delinquency,  
 19.3(2), 19.14 Filed **ARC 5091C**..... 7/15/20

#### **CHIEF INFORMATION OFFICER, OFFICE OF THE[129]**

Broadband—targeted service areas, project certification, grants program, 20.1 to 20.6, 21.2,  
 21.3, 21.6, 21.7, 22.1, 22.2, 22.4 to 22.6, 22.8 Notice **ARC 5110C** ..... 7/29/20

#### **ECONOMIC DEVELOPMENT AUTHORITY[261]**

Rural housing needs assessment grant program, ch 220 Filed **ARC 5092C**..... 7/15/20  
 Rural innovation grant program, ch 221 Filed **ARC 5093C**..... 7/15/20

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

Local emergency management—recovery and mitigation plans, 7.3(4)“d” Notice **ARC 5085C**..... 7/15/20

#### **INSPECTIONS AND APPEALS DEPARTMENT[481]**

Licensing sanction prohibition for student loan debt repayment default or delinquency and  
 related service obligations, amendments to ch 8 Notice **ARC 5106C**..... 7/29/20  
 Inspection standards for food establishments and processing plants—mushrooms, prohibition  
 of animals, adoption of federal regulations, 30.2, 31.1, 31.2(9) Filed **ARC 5119C**..... 7/29/20

#### **INSURANCE DIVISION[191]**

COMMERCE DEPARTMENT[181]“umbrella”

Contested cases; waivers; interventions, amendments to chs 3, 4 Notice **ARC 5109C** ..... 7/29/20

#### **IOWA FINANCE AUTHORITY[265]**

Board of directors, 1.3 Filed **ARC 5094C** ..... 7/15/20

#### **LABOR SERVICES DIVISION[875]**

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#### **NATURAL RESOURCE COMMISSION[571]**

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

Habitat and public access program—agreement template, habitat contractor, 22.14 Notice **ARC 5112C**..... 7/29/20  
 Zoning of Mississippi River, City of Lansing, 40.62 Notice **ARC 5079C** ..... 7/15/20

#### **NATURAL RESOURCES DEPARTMENT[561]**

Process and timeline for appeals of administrative orders issued by the department, 7.4(1),  
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#### **NURSING BOARD[655]**

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Administrative and regulatory authority—hiring and supervising of executive director,  
 1.3(2)“j” Notice **ARC 5116C** ..... 7/29/20

Nursing education programs—preceptors, 2.1, 2.4(2), 2.15 to 2.18 Notice **ARC 5117C** ..... 7/29/20

### **PHARMACY BOARD[657]**

**PUBLIC HEALTH DEPARTMENT[641]“umbrella”**

Administrative staff; service animals; immunization protocols; waivers; petition for rule making, 1.2, 2.4(2), 2.7, 8.5(5), 13.16(8), 16.6, 26.4, ch 34, 39.10 Notice **ARC 5113C**..... 7/29/20  
 Patient information for drug utilization review; contact information for electronically transmitted prescription, 8.21, 21.6(1)“d,” 21.7(3) Notice **ARC 5115C** ..... 7/29/20  
 Schedule I and II controlled substances—perpetual inventory, ordering, distributing, 10.17, 10.18, 11.27 Notice **ARC 5114C** ..... 7/29/20  
 Controlled substance registration—renewal, cancellation, 10.9(7) Filed **ARC 5096C** ..... 7/15/20

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Massage therapists—child abuse and dependent adult abuse mandatory reporter training, 131.8(4) Filed **ARC 5097C** ..... 7/15/20

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 Consumer fireworks sales licensing and safety standards, 265.20, 265.23, 265.26, 265.27, 265.31, 265.40 to 265.43, 265.51(4) Notice **ARC 5105C**..... 7/29/20

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 Homestead tax credit; military service tax exemption, 80.1, 80.2 Notice **ARC 5104C** ..... 7/29/20  
 Sales and use tax exemption for grain bins, 226.19(4), 226.20 Filed **ARC 5098C**..... 7/15/20  
 Sales tax exemption for manufacturers—exclusion of persons primarily engaged in listed activities, 230.15(4)“c” Filed **ARC 5099C**..... 7/15/20

### **TRANSPORTATION DEPARTMENT[761]**

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 Motor vehicle equipment—specially constructed or reconstructed autocycles, 450.2, 450.4(1), 450.5 Notice **ARC 5101C** ..... 7/29/20  
 Motorcycle rider education, 602.2(1), 635.2, 635.3, 635.4(1), 635.5 to 635.7 Notice **ARC 5102C** ..... 7/29/20  
 Driver’s licenses for undercover law enforcement officers—expiration date, 625.3(2) Notice **ARC 5100C** ..... 7/29/20

### **UTILITIES DIVISION[199]**

**COMMERCE DEPARTMENT[181]“umbrella”**

Electric lines, ch 11 Filed **ARC 5121C** ..... 7/29/20  
 Rate cases, tariffs, and rate-regulation election practice and procedure, ch 26 Notice **ARC 5107C**..... 7/29/20

### **VOLUNTEER SERVICE, IOWA COMMISSION ON[817]**

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 Iowa national service corps program, ch 14 Notice **ARC 5120C**..... 7/29/20

## ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

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

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

Senator Mark Costello  
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Imogene, Iowa 51645

Senator Robert Hogg  
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Representative Amy Nielsen  
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North Liberty, Iowa 52317

Representative Rick Olson  
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Des Moines, Iowa 50317

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

**NOTE: See also the Advisory Notice on page 245.**

**AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]**

National Institute of Standards and Technology (NIST) Handbooks 44, 130, and 133—adoption by reference, 85.39 IAB 7/29/20 <b>ARC 5108C</b>	Second Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	August 19, 2020 9 to 10 a.m.
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**CHIEF INFORMATION OFFICER, OFFICE OF THE[129]**

Broadband—targeted service areas, project certification, grants program, 20.1 to 20.6, 21.2, 21.3, 21.6, 21.7, 22.1, 22.2, 22.4 to 22.6, 22.8 IAB 7/29/20 <b>ARC 5110C</b>	Via teleconference Conference Line: +1 619.738.1390 PIN: 175654661	August 18, 2020 9 to 10 a.m.
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**INSURANCE DIVISION[191]**

Contested cases; waivers; interventions, amendments to chs 3, 4 IAB 7/29/20 <b>ARC 5109C</b>	Via conference call Contact Tracy Swalwell Phone: 515.725.1249 Email: <a href="mailto:tracy.swalwell@iid.iowa.gov">tracy.swalwell@iid.iowa.gov</a>	August 25, 2020 11 a.m. to 12 noon
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**NATURAL RESOURCE COMMISSION[571]**

Zoning of Mississippi River, City of Lansing, 40.62 IAB 7/15/20 <b>ARC 5079C</b>	Via video/conference call Contact Susan Stocker Email: <a href="mailto:susan.stocker@dnr.iowa.gov">susan.stocker@dnr.iowa.gov</a>	August 4, 2020 1 to 2 p.m.
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Habitat and public access program—agreement template, habitat contractor, 22.14 IAB 7/29/20 <b>ARC 5112C</b>	Via video/conference call Contact Brian Hickman Email: <a href="mailto:brian.hickman@dnr.iowa.gov">brian.hickman@dnr.iowa.gov</a>	August 18, 2020 1 to 2 p.m.
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**NURSING BOARD[655]**

Administrative and regulatory authority—hiring and supervising of executive director, 1.3(2)“j” IAB 7/29/20 <b>ARC 5116C</b>	Board Office, Suite B 400 S.W. 8th St. Des Moines, Iowa	August 18, 2020 9 to 10 a.m.
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Nursing education programs—preceptors, 2.1, 2.4(2), 2.15 to 2.18 IAB 7/29/20 <b>ARC 5117C</b>	Board Office, Suite B 400 S.W. 8th St. Des Moines, Iowa	August 18, 2020 10 to 11 a.m.
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**TRANSPORTATION DEPARTMENT[761]**

Bridge permits for certain implements of husbandry, 181.1 IAB 7/15/20 <b>ARC 5081C</b>	Via conference call Contact Tracy George Email: <a href="mailto:tracy.george@iowadot.us">tracy.george@iowadot.us</a>	August 6, 2020 10 a.m. (If requested)
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Electric vehicle fees, 400.1,  
400.16, 400.32, 400.44(1),  
400.60, 505.1 to 505.4,  
505.6(2)“b”  
IAB 7/15/20 **ARC 5080C**

Via conference call  
Contact Tracy George  
Email: [tracy.george@iowadot.us](mailto:tracy.george@iowadot.us)

August 5, 2020  
10 to 11 a.m.  
(If requested)

Motor vehicle  
equipment—specially  
constructed or reconstructed  
autocycles, 450.2, 450.4(1),  
450.5  
IAB 7/29/20 **ARC 5101C**

Via conference call  
Contact Tracy George  
Email: [tracy.george@iowadot.us](mailto:tracy.george@iowadot.us)

August 20, 2020  
9 to 10 a.m.  
(If requested)

Motorcycle rider education,  
602.2(1), 635.2, 635.3,  
635.4(1), 635.5 to 635.7  
IAB 7/29/20 **ARC 5102C**

Via conference call  
Contact Tracy George  
Email: [tracy.george@iowadot.us](mailto:tracy.george@iowadot.us)

August 20, 2020  
1 to 2 p.m.  
(If requested)

Driver’s licenses for  
undercover law enforcement  
officers—expiration date,  
625.3(2)  
IAB 7/29/20 **ARC 5100C**

Via conference call  
Contact Tracy George  
Email: [tracy.george@iowadot.us](mailto:tracy.george@iowadot.us)

August 20, 2020  
10 to 11 a.m.

#### **UTILITIES DIVISION[199]**

Rate cases, tariffs, and  
rate-regulation election practice  
and procedure, ch 26  
IAB 7/29/20 **ARC 5107C**

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

October 20, 2020  
9 a.m. to 12 noon

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.

ADMINISTRATIVE SERVICES DEPARTMENT[11]  
 AGING, DEPARTMENT ON[17]  
 AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]  
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**ARC 5108C**

**AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]**

**Notice of Intended Action**

**Proposing rule making related to adoption by reference of NIST Handbooks 44, 130 and 133  
and providing an opportunity for public comment**

The Agriculture and Land Stewardship Department hereby proposes to amend Chapter 85, “Weights and Measures,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 189.2 and 215.24.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapters 189 and 215.

*Purpose and Summary*

This rule making proposes to adopt by reference National Institute of Standards and Technology (NIST) Handbooks 44, 130 and 133, amended or revised as of January 1, 2020. The anticipated effect on stakeholders of the adoption of the most recent versions of these handbooks is minimal, although there may be some impact on commercial dispensers of hydrogen fuel and ethanol-gasoline blends. The Department routinely adopts the latest versions of these handbooks every five years.

In 2019, the 88th General Assembly enacted House File 767, which added hydrogen fuel to those fuels subject to taxation under Iowa Code chapter 452A. This legislation also required the licensing and inspection of commercial dispensers of hydrogen fuel. Even though there are no commercial dispensers of hydrogen fuel in Iowa at this time, the Department anticipates that some will be in operation soon. The most recent versions of NIST Handbooks 44, 130 and 133 cover inspection and testing procedures for dispensers of hydrogen fuel. The adoption by reference of the most recent versions of these handbooks will ensure equity and safety for Iowa consumers of hydrogen fuel in the future.

The Department’s adoption by reference of the updated version of NIST Handbook 130 also relates to seasonal summer sales of E-15 gasoline. In 2019, the Environmental Protection Agency (EPA) withdrew its prohibition of the sale of E-15 gasoline from June 1 to September 15, creating a “vapor pressure” allowance for the summer months. NIST requirements regarding E-15 gasoline were still in the process of revision at the time of the EPA’s regulatory change, and the Department was still following NIST standards that enforced the summer sales prohibition. To address this inconsistency, the Department in 2019 issued a waiver of its own rules on the prohibition of summer sales of E-15 gasoline that covered the period from June 1 to September 15, 2019. In February 2020, the Department adopted ARC 4947C, which adopted by reference only that part of NIST Handbook 130 that addressed gasoline-ethanol blends, namely, Part IV, Section G, 2.1.2. Since the adoption of ARC 4947C, the Department has determined that the entirety of Handbook 130 may be adopted by reference because NIST has completed updating all its requirements, including those that affect seasonal summer sales of E-15 gasoline.

Other updated sections of NIST Handbooks 44, 130 and 133 focus on matters such as tractor hydraulic fluid labeling and plywood density for which the Department does not have active inspection programs; however, the Department may choose to investigate complaints about these things on an individual basis. The most recent versions of NIST Handbooks 44, 130 and 133 provide definitive standards for the Department’s investigation of complaints and enforcement of NIST standards.

*Fiscal Impact*

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

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

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 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 18, 2020. Comments should be directed to:

Maison Bleam  
Iowa Department of Agriculture and Land Stewardship  
Wallace State Office Building  
502 East 9th Street  
Des Moines, Iowa 50319  
Email: [maison.bleam@iowaagriculture.gov](mailto:maison.bleam@iowaagriculture.gov)

*Public Hearing*

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

August 19, 2020  
9 to 10 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 action is proposed:

Amend rule 21—85.39(189,215) as follows:

**21—85.39(189,215) Weights and measures.**

**85.39(1)** The specifications, tolerances and regulations for commercial weighing and measuring devices, together with amendments thereto, as recommended by the National Institute of Standards and Technology and published in National Institute of Standards and Technology Handbook 44 amended or revised as of ~~July 1, 2013~~ January 1, 2020, shall be the specifications, tolerances and regulations for commercial weighing and measuring devices in the state of Iowa, except as modified by state statutes, or by rules adopted and published by the Iowa department of agriculture and land stewardship and not rescinded.

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

**85.39(2)** The National Institute of Standards and Technology (NIST) ~~Handbooks~~ Handbook 130 and, Uniform Laws and Regulations in the Areas of Legal Metrology and Fuel Quality, Handbook 133: Weights and Measures Law, Packaging and Labeling, Method of Sale, Type Evaluation, Checking the Net Contents of Packaged Goods, and Uniform Engine Fuels and Automotive Lubricants Regulation, and all supplements to these handbooks, as published by the National Institute of Standards and Technology amended or revised as of ~~July 1, 2013~~ January 1, 2020, are adopted in their entirety by reference except as modified by state statutes, or by rules adopted and published by the Iowa department of agriculture and land stewardship.

~~a. The National Institute of Standards and Technology (NIST) Handbook 130, Part IV, Section G, Section 2. Standard Specifications, 2.1.2. Gasoline-Ethanol Blends, as of November 1, 2020, is adopted in its entirety by reference except as modified by state statutes, or by rules adopted and published by the Iowa department of agriculture and land stewardship.~~

~~b. Reserved.~~

This rule is intended to implement Iowa Code sections 189.9, 189.13, 189.17, 215.14, 215.18 and 215.23.

**ARC 5111C****ALCOHOLIC BEVERAGES DIVISION[185]****Notice of Intended Action****Proposing rule making related to the filling and sale of beer and wine “growlers” and providing an opportunity for public comment**

The Alcoholic Beverages Division hereby proposes to amend Chapter 4, “Liquor Licenses—Beer Permits—Wine Permits,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 123.10 and 2020 Iowa Acts, House File 2540.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 123.123, 123.131, 123.132, 123.172 and 123.178 to 123.178B and 2020 Iowa Acts, House File 2540.

*Purpose and Summary*

This rule making is required due to enactment of 2020 Iowa Acts, House File 2540. The rule making proposes a new rule establishing how a container other than the original container, otherwise known as a “growler,” shall be filled with wine or native wine, shall be properly sealed so as to not be considered an open container under Iowa Code sections 321.284 and 321.284A, and shall be sold by class “C” liquor licensees; class “B,” class “B” native, and class “C” native wine permittees; and the licensee’s or permittee’s employees.

The rule making also amends rule 185—4.6(123), which establishes the requirements for the filling and sale of beer growlers, to remove the restriction that beer growlers must be sold via an in-person sale by class “B,” class “C,” and special class “C” liquor control licensees; class “B” beer permittees; and the licensee’s or permittee’s employees. Other nonsubstantive changes to the rule are also proposed.

*Fiscal Impact*

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

## ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Division for a waiver of the discretionary provisions, if any, pursuant to 185—Chapter 19.

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Division no later than 4:30 p.m. on August 18, 2020. Comments should be directed to:

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

*Public Hearing*

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

*Review by Administrative Rules Review Committee*

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

The following rule-making actions are proposed:

ITEM 1. Amend rule 185—4.6(123) as follows:

**185—4.6(123) Filling and selling of beer in a container other than the original container.** ~~Liquor Class “B,” class “C,” and special class “C” liquor control license holders licensees, class “B” and class “C” beer permit holders permittees, and their the licensee’s or permittee’s employees may fill, refill, and sell beer in a container other than the original container, otherwise known as a growler, subject to the requirements and restrictions provided in Iowa Code sections section 123.131 and as amended by 2020 Iowa Acts, House File 2540, section 14; Iowa Code section 123.132; and in this rule.~~

**4.6(1) Definitions.**

“Beer,” for the ~~purpose~~ purposes of this rule, means “beer” as defined in Iowa Code section 123.3(7) and “high alcoholic content beer” as defined in Iowa Code section ~~123.3(19)~~ 123.3(22).

“Growler,” for the ~~purpose~~ purposes of this rule, means any fillable and sealable glass, ceramic, plastic, aluminum, or stainless steel container designed to hold ~~only~~ beer or high alcoholic content beer.

“Original container,” for the ~~purpose~~ purposes of this rule, means a vessel containing beer that has been lawfully obtained and has been securely capped, sealed, or corked at the location of manufacture.

## ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

For special class “A” beer permit holders, an “original container” includes a tank used for storing and serving beer.

~~4.6(2) Sales criteria and restrictions. All sales made pursuant to this rule shall be made in person. Beer packaged and sold pursuant to this rule shall not be delivered or direct shipped to consumers.~~

~~4.6(3)~~ **4.6(2) Filling and refilling requirements.**

- a. A growler shall have the capacity to hold no more than 72 ounces.
- b. A growler shall be filled or refilled only by the licensee or permittee or the licensee’s or permittee’s employees who are 18 years of age or older.
- c. A growler shall be filled or refilled only on demand by a consumer at the time of the ~~in-person~~ sale.

d. A growler shall be filled or refilled only with beer from the original container procured from a ~~duly licensed wholesaler~~ class “A” beer permittee unless the beer being used to fill or refill a growler on the premises of a special class “A” beer permit holder was manufactured by that special class “A” beer permit holder on the permitted premises.

e. A retailer may exchange a growler to be filled or refilled, ~~provided the exchange occurs at the time of the in-person sale.~~

f. The filling or refilling of a growler shall at all times be conducted in compliance with applicable state and federal food safety statutes and regulations.

~~4.6(4)~~ **4.6(3) Sealing requirements.** A filled or refilled growler shall be securely sealed at the time of the sale by the licensee or permittee or the licensee’s or permittee’s employees in the following manner:

- a. to d. No change.

~~4.6(5)~~ **4.6(4) Restrictions.**

~~a. Beer shall only be consumed on the premises of a class “C” beer permit holder for a tasting in accordance with rule 185—16.7(123).~~

- ~~b. a.~~ A growler shall not be filled in advance of a sale.
- ~~c. b.~~ A growler filled pursuant to this rule shall not be delivered or direct-shipped to a consumer.
- ~~d. c.~~ A growler filled pursuant to this rule shall not be sold or otherwise distributed to a retailer.
- ~~e. d.~~ A licensee or permittee or a licensee’s or permittee’s employees shall not allow a consumer to fill or refill a growler.

~~f. e.~~ The filling, refilling and selling of a growler shall be limited to the hours in which ~~beer~~ alcoholic beverages may be legally sold.

~~g. f.~~ A filled or refilled growler shall not be sold to any consumer who is under legal age, intoxicated, or simulating intoxication.

~~h. g.~~ An original container shall only be opened on the premises of a class “C” beer ~~permit holder~~ permittee for the limited purposes of filling or refilling a growler as provided in this rule, or for a tasting in accordance with rule 185—16.7(123).

~~h.~~ A class “C” beer permittee shall only fill a growler at the time of an in-person sale.

~~4.6(6)~~ **4.6(5) Violations.** Failure to comply with the requirements and restrictions of this rule shall subject the licensee or permittee to the penalty provisions provided in Iowa Code chapter 123.

This rule is intended to implement Iowa Code sections 123.123, 123.131, and 123.132.

ITEM 2. Adopt the following **new** rule 185—4.11(123):

**185—4.11(123) Filling and selling of wine and native wine in a container other than the original container.** Class “C” liquor control licensees; class “B,” class “B” native, and class “C” native wine permittees; and the licensee’s or permittee’s employees may fill, refill, and sell wine or native wine in a container other than the original container, otherwise known as a growler, subject to the requirements and restrictions provided in Iowa Code sections 123.178, 123.178A, and 123.178B as amended by 2020 Iowa Acts, House File 2540, sections 4, 5, 6, 7, 8, and 9, and in this rule.

**4.11(1) Definitions.**

“Growler,” for the purposes of this rule, means any fillable and sealable glass, ceramic, plastic, aluminum, or stainless steel container designed to hold wine or native wine.



## ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

“*Native wine*,” for the purposes of this rule, means wine manufactured in Iowa by fermentation of fruit, vegetables, dandelions, clover, honey, or any combination of these ingredients by a class “A” wine permittee.

“*Original container*,” for the purposes of this rule, means a vessel containing wine or native wine that has been lawfully obtained and has been securely capped, sealed, or corked at the location of manufacture.

“*Wine*,” for the purposes of this rule, means “wine” as defined in Iowa Code section 123.3(54).

**4.11(2) Filling and refilling requirements.**

- a. A growler shall have the capacity to hold no more than 72 ounces.
- b. A growler shall be filled or refilled only by the licensee or permittee or the licensee’s or permittee’s employees who are 18 years of age or older.
- c. A growler shall be filled or refilled only on demand by a consumer at the time of the sale.
- d. A growler shall be filled or refilled only with wine or native wine from the original container procured from a class “A” wine permittee.
- e. Class “B” native and class “C” native wine permittees shall fill a growler with only native wine.
- f. A retailer may exchange a growler to be filled or refilled.
- g. The filling or refilling of a growler shall at all times be conducted in compliance with applicable state and federal food safety statutes and regulations.

**4.11(3) Sealing requirements.** A filled or refilled growler shall be securely sealed at the time of the sale by the licensee or permittee or the licensee’s or permittee’s employees in the following manner:

- a. A growler shall bear a cap, lid, stopper, or plug.
- b. A plastic heat shrink wrap band, strip, or sleeve shall extend around the cap or lid or over the stopper or plug to form a seal that must be broken upon the opening of the growler. A lid permanently affixed with a can seamer shall not require a plastic heat shrink wrap band, strip, or sleeve.
- c. The heat shrink wrap seal shall be so secure that it is visibly apparent when the seal on a growler has been tampered with or a sealed growler has otherwise been reopened.
- d. A growler shall not be deemed an open container, subject to the requirements of Iowa Code sections 321.284 and 321.284A, provided the sealed growler is unopened and the seal has not been tampered with and the contents of the growler have not been partially removed.

**4.11(4) Restrictions.**

- a. A growler shall not be filled in advance of a sale.
- b. A growler filled pursuant to this rule shall not be delivered or direct-shipped to a consumer.
- c. A growler filled pursuant to this rule shall not be sold or otherwise distributed to a retailer.
- d. A licensee or permittee or a licensee’s or permittee’s employees shall not allow a consumer to fill or refill a growler.
- e. The filling, refilling, and selling of a growler shall be limited to the hours in which alcoholic beverages may be legally sold.
- f. A filled or refilled growler shall not be sold to any consumer who is under legal age, intoxicated, or simulating intoxication.
- g. An original container shall only be opened on the premises of a class “B” or class “B” native wine permittee for the limited purposes of filling or refilling a growler as provided in this rule, or for a tasting in accordance with rule 185—16.7(123).

**4.11(5) Violations.** Failure to comply with the requirements and restrictions of this rule shall subject the licensee or permittee to the penalty provisions provided in Iowa Code chapter 123.

This rule is intended to implement Iowa Code sections 123.172, 123.178, 123.178A, and 123.178B.

**ARC 5110C**

**CHIEF INFORMATION OFFICER, OFFICE OF THE [129]**

**Notice of Intended Action**

**Proposing rule making related to broadband infrastructure and grants and Empower Rural Iowa and providing an opportunity for public comment**

The Office of the Chief Information Officer (OCIO) hereby proposes to amend Chapter 20, “Broadband Infrastructure—Targeted Service Areas,” Chapter 21, “Broadband Infrastructure—Project Certification,” and Chapter 22, “Broadband Grants Program,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 8B.4(5), 8B.10(2), 8B.11(8) and 427.1(40) and 2020 Iowa Acts, Senate File 2400.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 8B.1, 8B.10, 8B.11 and 427.1(40) and 2020 Iowa Acts, Senate File 2400.

*Purpose and Summary*

These proposed amendments interpret and implement 2020 Iowa Acts, Senate File 2400, relating to broadband service, including matters under the purview of the Chief Information Officer, the Empower Rural Iowa Broadband Grant Fund, and certain broadband infrastructure tax exemptions.

*Fiscal Impact*

In administering programs for Fiscal Year 2020-2021, OCIO will use existing budget and resources.

*Jobs Impact*

These amendments and continued support and operation of these programs will lead to the deployment of additional broadband projects by communications service providers and therefore increased job opportunities across the state.

*Waivers*

The Office’s general waivers chapter is located at 129—Chapter 7.

*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 Office no later than 4:30 p.m. on August 18, 2020. Comments should be directed to:

Matt Behrens  
Office of the Chief Information Officer  
200 East Grand Avenue  
Des Moines, Iowa 50309  
Phone: 515.281.5503  
Fax: 515.281.6137  
Email: [cio@iowa.gov](mailto:cio@iowa.gov)

CHIEF INFORMATION OFFICER, OFFICE OF THE[129](cont'd)

*Public Hearing*

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

August 18, 2020  
9 to 10 a.m.

Via teleconference  
Office of the Chief Information Officer  
Conference Line: +1 619.738.1390  
PIN: 175654661

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 Office 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 129—20.1(8B,427) as follows:

**129—20.1(8B,427) Definitions.** The definitions in Iowa Code section 8B.1 as amended by ~~2019 Iowa Acts, House File 772,~~ 2020 Iowa Acts, Senate File 2400, shall apply to this chapter. In addition, for purposes of this chapter, the following definitions shall apply.

*“As of date”* means the as of date of the broadband availability maps and corresponding data sources utilized by the office in determining whether a communications service provider ~~offers or~~ facilitates broadband service in a particular ~~census~~ broadband block at or above the download and upload speeds specified in the definition of targeted service area and underlying the statewide map published and then in effect in accordance with rules 129—20.3(8B,427) and 129—20.4(8B,427). ~~For example, until the office publishes an updated version of the statewide map in accordance with rules 129—20.3(8B,427) and 129—20.4(8B,427), the as of date remains July 1, 2015, which is the as of date of the first statewide map.~~

*“Broadband block”* means:

1. Until the Federal Communications Commission (FCC) adopts a different or more granular unit of measurement(s) by appropriate regulation or order (such as location-specific, address-specific, or polygon-based), a census block.

2. If the FCC adopts a different or more granular unit of measurement(s) by appropriate regulation or order (such as location-specific, address-specific, or polygon-based), for purposes of the next iteration of the statewide map published in accordance with rule 129—20.4(8B,427) following the FCC's adoption of such unit of measurement(s), such unit of measurement(s) as adopted by the FCC and which is located in this state.

“Broadband unit” or “broadband units” means a home, farm, school, or business within a broadband block as of the as of date. The number of broadband units within a broadband block shall be as represented on the statewide map published in accordance with rule 129—20.4(8B,427).

*“Census block”* means a U.S. Census Bureau census block located in this state, including any crop operation located within the census block.

*“Chief information officer”* or *“CIO”* means the state chief information officer or the state chief information officer's designee.

CHIEF INFORMATION OFFICER, OFFICE OF THE[129](cont'd)

*“Installation of the broadband infrastructure”* means the labor, construction, building, and furnishing of new physical infrastructure used for the transmission of data that provides broadband services. “Installation of the broadband infrastructure” does not include the process of removing existing infrastructure, fixtures, or other real property in preparation of installation of the broadband infrastructure.

*“Materially served”* means a broadband block within which 10 percent or greater of the geographic area comprising the broadband block is facilitated with broadband service at or above the download and upload speeds identified by the FCC pursuant to Section 706 of the federal Telecommunications Act of 1996, as amended.

*“Materially underserved”* means a broadband block within which less than 10 percent of the geographic area comprising the broadband block is facilitated with broadband service at or above the download and upload speeds identified by the FCC pursuant to Section 706 of the federal Telecommunications Act of 1996, as amended.

*“Meaningfully available”* means broadband service that is facilitated to consumers on a commercially reasonable basis and without significant interruption or delay. In determining whether broadband service is meaningfully available on a commercially reasonable basis, the office may consider product or delivery attributes or characteristics such as availability in terms of average uptime and downtime or latency or delays in the transmission of data.

*“Targeted service area”* means a broadband block:

1. Within which no communications service provider facilitates broadband service at or above the download and upload speeds identified by the FCC pursuant to Section 706 of the federal Telecommunications Act of 1996, as amended; or

2. That is not materially served with meaningfully available broadband service by one or more communications service providers at or above the download and upload speeds identified by the FCC pursuant to Section 706 of the federal Telecommunications Act of 1996, as amended, as of the as of date.

ITEM 2. Amend rule 129—20.2(8B,427) as follows:

**129—20.2(8B,427) Scope.** This chapter interprets relevant provisions of Iowa Code sections 8B.1, 8B.10, and 8B.11 as amended by ~~2019 Iowa Acts, House File 772~~ 2020 Iowa Acts, Senate File 2400; implements Iowa Code section 427.1(40) as amended by ~~2019 Iowa Acts, House File 772~~ 2020 Iowa Acts, Senate File 2400; and applies to the office’s determinations of whether a ~~eensus~~ broadband block is a targeted service area and to persons who wish to challenge the office’s finding on whether a ~~eensus~~ broadband block is a targeted service area.

ITEM 3. Amend rule 129—20.3(8B,427) as follows:

**129—20.3(8B,427) Broadband availability maps and data sources.**

**20.3(1)** To determine whether a communications service provider ~~offers or~~ facilitates broadband service in a particular ~~eensus~~ broadband block at or above the download and upload speeds specified in the definition of targeted service area as of the as of date, the office ~~utilizes fixed~~ may utilize the following data sources:

*a.* Fixed broadband availability maps and corresponding data sources made available by the ~~Federal Communications Commission (FCC)~~ FCC online, which as of ~~September 18, 2019~~ [the effective date of these amendments], was available at [www.fcc.gov/general/broadband-deployment-data-fcc-form-477](http://www.fcc.gov/general/broadband-deployment-data-fcc-form-477). ~~Such maps and data sources are widely accepted for accuracy and made available for public review and comment. By selecting these maps and data sources, the office has satisfied its obligation to reference broadband availability maps or data sources that are widely accepted for accuracy and available for public review and comment as required by Iowa Code section 8B.10(1).~~

*b.* Broadband availability maps and corresponding data sources developed or produced by contractors or third parties retained or utilized by the office for such purpose.

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*c.* For purposes of identifying or verifying the number and location of broadband units within a broadband block, next generation (NG) 911 structure data, statewide address location data, or United States census data.

*d.* Other data sources made available by or through federal agencies, directly or indirectly.

**20.3(2)** In accordance with Iowa Code section 8B.10(3) as enacted by 2020 Iowa Acts, Senate File 2400, all data sources relied on by the office in making the determination(s) contemplated by this rule and rule 129—20.4(8B,427) shall exclude mobile wireless or satellite data, capabilities, and delivery mediums.

ITEM 4. Amend rule 129—20.4(8B,427) as follows:

**129—20.4(8B,427) Targeted service area determination.**

**20.4(1)** The office will create a statewide map divided into eensus broadband blocks. Based on the maps and data sources referenced in rule 129—20.3(8B,427), the statewide map will designate eensus broadband blocks within which, that qualify as targeted service areas as of the as of date, ~~no communications service provider offered or facilitated broadband service to the public at or above the download and upload speeds specified in the definition of targeted service area.~~ This statewide map shall be published online at [ocio.iowa.gov/broadband](http://ocio.iowa.gov/broadband).

**20.4(2)** In accordance with Iowa Code section 8B.10(1) as amended by 2019 Iowa Acts, House File 772, 2020 Iowa Acts, Senate File 2400, the office shall periodically make renewed determinations of whether a communications service provider ~~offers or~~ facilitates broadband service at or above the download or upload speeds specified in the definition of targeted service area by publishing an updated version of the statewide map. Such updates shall be made, to the extent updated maps and data sources are available at the time, no less frequently than prior to each round of grant applications solicited by the office pursuant to Iowa Code section 8B.11 as amended by 2019 Iowa Acts, House File 772 2020 Iowa Acts, Senate File 2400.

**20.4(3)** As of the date of the office's publication of each version of the statewide map online at [ocio.iowa.gov/broadband](http://ocio.iowa.gov/broadband), targeted service area designations as shown on the statewide map shall be considered the office's final determination and finding of whether a particular eensus broadband block constitutes a targeted service area, unless a person or party successfully challenges the office's determination pursuant to the appeals and contested case process outlined in this chapter, in which case the office will update the statewide map to reflect the outcome of such challenge(s). For the sake of clarity, failure to challenge the office's determination and finding of whether a particular eensus broadband block constitutes a targeted service area by filing a notice of appeal within the 20-day period established by subrule 20.5(1) shall render the office's determination and finding with respect to that particular eensus broadband block final and no longer subject to challenge. A party's failure to challenge the office's determination and finding of whether a particular eensus broadband block constitutes a targeted service area by filing a notice of appeal within the 20-day period established by subrule 20.5(1) shall be deemed a failure to exhaust administrative remedies.

**20.4(4)** ~~Until the office publishes an updated version of the statewide map in accordance with this rule, the as of date for purposes of determining whether any communications service provider offered and facilitated broadband service to the public at or above the download and upload speeds specified in the definition of targeted service area in accordance with Iowa Code section 8B.10(1) as amended by 2019 Iowa Acts, House File 772, and rule 129—20.3(8B,427) and this rule shall remain July 1, 2015, which is the as of date of the first statewide map. Thereafter, the as of date shall be the same as the as of date of the maps and corresponding data sources utilized by the office each time the office makes its renewed determination in accordance with Iowa Code section 8B.10(1) as amended by 2019 Iowa Acts, House File 772, and rule 129—20.3(8B,427) and this rule.~~

ITEM 5. Amend subrules 20.5(1), 20.5(4), 20.5(5) and 20.5(8) as follows:

**20.5(1)** *Notice of appeal.* Within 20 days after the office makes its final determination of whether a particular eensus broadband block constitutes a targeted service area pursuant to rule 129—20.4(8B,427),

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any person or party aggrieved or adversely affected by such determination may challenge the office's finding by filing a notice of appeal with the office.

*a.* The notice of appeal shall set forth:

- (1) The name, address, telephone number, and email address of the person or party;
- (2) The particular ~~census block~~ broadband block(s) designation the person or party is challenging by stating:

1. The ~~census~~ broadband block ~~number~~ number(s) or other unique identifier as provided on the statewide map referenced in rule 129—20.4(8B,427);

2. The county in which the ~~census block~~ broadband block(s) is located as provided on the statewide map referenced in rule 129—20.4(8B,427);

- (3) and (4) No change.

*b.* No change.

**20.5(4) Internal review.** At the end of the time periods specified in subrules 20.5(1) and 20.5(3), the office shall consolidate all appeals involving the same ~~census block~~ broadband block(s) and conduct an internal review of the evidence and information submitted by all appellants related thereto, in conjunction with any other evidence and information submitted by any affected persons or parties pursuant to subrule 20.5(3), the maps and data sources identified and originally utilized in ~~rule~~ rules 129—20.3(8B,427) and 129—20.4(8B,427), and any other information deemed relevant by the office.

**20.5(5) Final agency decision.** Following the internal review set forth in subrule 20.5(4), the office will issue a final agency decision stating the reasons for the office's decision concerning the ~~census~~ broadband block(s) in question. In issuing the decision, the office shall consider the evidence and information submitted by all appellants related thereto, in conjunction with any other evidence and information submitted by any affected persons or parties pursuant to subrule 20.5(3), the maps and data sources identified and originally utilized in ~~rule~~ rules 129—20.3(8B,427) and 129—20.4(8B,427), and any other information deemed relevant by the office. The final agency decision will be posted online at [ocio.iowa.gov/broadband](http://ocio.iowa.gov/broadband). The final agency decision shall become final unless within 30 days of such posting an appellant or an affected person or party that submitted evidence in support of, or in opposition to, the appeal files a request for a contested case proceeding pursuant to rule 129—20.6(8B,427).

**20.5(8) Probative evidence and information.** Examples of evidence and information the office would consider particularly probative of broadband service at or above the download and upload speeds specified in the definition of targeted service area as of the as of date for purposes of adjudicating an appeal of the office's determination of whether a particular ~~census~~ broadband block constitutes a targeted service area include:

*a.* Signed attestations submitted to the office under penalty of perjury on forms provided by the office that the applicable ~~census~~ broadband block(s) was or was not served as of the as of date with broadband service at or above the download and upload speeds specified in the definition of targeted service area.

*b.* Bills or invoices provided to or received by customers in the applicable ~~census~~ broadband block(s) which identify the specific download and upload speeds provided or received as of the as of date.

ITEM 6. Amend subrules 20.6(1) and 20.6(2) as follows:

**20.6(1) Notice of hearing.** Upon receipt of a request for a contested case proceeding, the office shall inform the department of inspections and appeals of the filing and of relevant information pertaining to the appeal in question. The department of inspections and appeals shall send a written notice of the date, time and location of the hearing to all affected persons or parties who initiated a contested case related to the ~~census block~~ broadband block(s) forming the basis of the contested case, or appealed the office's determination of the ~~census block~~ broadband block(s) forming the basis of the contested case pursuant to subrule 20.5(1), or submitted evidence or information to the office pursuant to subrule 20.5(3) directly related to the ~~census block~~ broadband block(s) forming the basis of the contested case. The presiding officer shall hold a hearing on the matter within 60 days of the date the notice of appeal was received by the office.

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**20.6(2) Consolidation.** In the event any contested cases concerning the same ~~eensus~~ broadband block ~~block(s)~~ are initiated separately, such matters shall be consolidated.

ITEM 7. Amend rule 129—21.2(8B,427) as follows:

**129—21.2(8B,427) Scope.** This chapter applies to communications service providers who request certification pursuant to Iowa Code section 427.1(40) from the office that an installation of the broadband infrastructure will facilitate broadband service at or above the download and upload speeds specified in the definition of targeted service area in a targeted service area(s).

ITEM 8. Amend rule 129—21.3(8B,427) as follows:

**129—21.3(8B,427) Application for certification.** Applications for certification shall be completed and submitted by the means specified online at [ocio.iowa.gov/broadband](http://ocio.iowa.gov/broadband). In order to receive certification from the office, applications must be filled out in their entirety. Communications service providers making application to the office will be required to certify that all of the information contained in the application is accurate. If it is later determined that any of the information contained in the application is inaccurate, the office may revoke the certification, in whole or in part. An application for certification shall include without limitation the following information:

1. No change.
2. The ~~eensus~~ broadband block number(s) or other unique identifier as provided on the statewide map referenced in rule 129—20.4(8B,427) for the targeted service area(s) forming the basis of the application (i.e., the targeted service area(s) in which the installation of the broadband infrastructure will facilitate broadband service at or above the download and upload speeds specified in the definition of targeted service area);
3. to 5. No change.

ITEM 9. Amend rules 129—21.6(8B,427) and 129—21.7(8B,427) as follows:

**129—21.6(8B,427) Contents of certification.** The certification shall state the communications service provider for which the certification is being issued, the ~~eensus~~ broadband block number(s) (as provided on the map referenced in rule 129—21.4(8B,427)) of the targeted service area(s) for which the certification is being issued and county(s) in which such targeted service area(s) resides, that the office has determined the ~~eensus~~ broadband block(s) in which the installation will facilitate broadband service are targeted service area(s), that the broadband infrastructure will facilitate broadband service at or above the download and upload speeds specified in the definition of targeted service area, and the date on which the certification is issued by the office. Such certification shall be signed by the CIO.

**129—21.7(8B,427) Targeted service areas subject to challenge.** To the extent an application for certification satisfies all other requirements of this chapter, if at the time such application is filed the office's determination of whether a particular ~~eensus~~ broadband block forming the basis of such application, in whole or in part, is a targeted service area currently subject to challenge pursuant to the appeal and contested case procedures set forth in 129—Chapter 20, or the judicial review and appeal procedures outlined in Iowa Code sections 17A.19 and 17A.20, the office will issue a certification. Notwithstanding the foregoing, the aspect(s) of the office's certification concerning ~~eensus~~ broadband blocks forming the basis of the application for certification that is currently subject to such challenge shall be purely contingent and valid only to the extent the office's original determination is ultimately upheld at the end of the entire appeals process once final, including judicial review and any subsequent appeal. For purely administrative purposes, if a portion of an application for certification is later deemed invalid by operation of this rule, the office may require the communications service provider to file a new application pursuant to rule 129—21.3(8B,427).

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ITEM 10. Amend rule 129—22.1(8B) as follows:

**129—22.1(8B) Definitions.** The definitions in Iowa Code section 8B.1 as amended by ~~2019 Iowa Acts, House File 772,~~ 2020 Iowa Acts, Senate File 2400, and rule 129—20.1(8B,427) shall apply to this chapter. In addition, for purposes of this chapter, the following definitions shall apply:

“*Grantee*” means a communications service provider awarded grant funds by the office pursuant to and in accordance with Iowa Code section 8B.11 and these rules.

“*Project*” means an installation of broadband infrastructure by a communications service provider that facilitates broadband service at or above the download and upload speeds specified in ~~the definition of targeted service area~~ Iowa Code section 8B.11(5) “a” or “b” as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable, in one or more targeted service areas.

ITEM 11. Amend rule 129—22.2(8B) as follows:

**129—22.2(8B) Purpose and scope.** This chapter applies to the broadband grants program established by Iowa Code section 8B.11 and administered by the office. As authorized by Iowa Code section 8B.11(8), this chapter interprets relevant provisions of Iowa Code sections 8B.1 and 8B.11 as amended by ~~2019 Iowa Acts, House File 772,~~ 2020 Iowa Acts, Senate File 2400, and establishes program process, management, and measurement rules designed to ensure the effective and efficient administration and oversight of the program, the key objective of which is to reduce or eliminate unserved and underserved areas in the state, leveraging federal funds and public and private partnerships where possible, by awarding grants to communications service providers that reduce or eliminate targeted service areas by installing broadband infrastructure that facilitates broadband service in targeted service areas at or above the download and upload speeds specified in ~~the definition of targeted service area in accordance with~~ Iowa Code ~~section 8B.11~~ section 8B.11(5) “a” or “b” as ~~amended~~ enacted by 2019 2020 Iowa Acts, House File ~~772~~ 2400, whichever is applicable, and in accordance with Iowa Code section 8B.11 and this chapter.

ITEM 12. Amend subrules 22.4(1) and 22.4(2) as follows:

**22.4(1) Application process.** Following the issuance of a NOFA by the office, communications service providers may apply to the office for grant funds for the installation of broadband infrastructure that facilitates broadband service in targeted service areas at or above the download and upload speeds specified in ~~the definition of targeted service area~~ Iowa Code section 8B.11(5) “a” or “b” as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable. Applications shall be made and submitted in accordance with the terms of these rules and the NOFA.

**22.4(2) Contents of application.** In addition to any other questions or requirements established by the NOFA, an application shall, at a minimum, include:

a. and b. No change.

c. The ~~census~~ broadband block number(s) as provided on the statewide map referenced in rule 129—20.4(8B,427) for the targeted service area(s) forming the basis of the application/project (i.e., the targeted service area(s) in which the proposed installation of broadband infrastructure will facilitate broadband service at or above the download and upload speeds specified in ~~the definition of targeted service area~~ Iowa Code section 8B.11(5) “a” or “b” as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable);

d. Attestation that the broadband infrastructure installed will facilitate broadband service at or above the download and upload speeds specified in ~~the definition of targeted service area~~ Iowa Code section 8B.11(5) “a” or “b” as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable;

e. Unless a specific cost allocation methodology is identified or required by the office as set forth in the NOFA, the specific methods or formulas the communications service provider will utilize in allocating the costs of and for broadband infrastructure for which reimbursement may be sought in proportion to such infrastructure’s actual facilitation of broadband service at or above the download and upload speeds specified in ~~the definition of targeted service area~~ Iowa Code section 8B.11(5) “a” or



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“b” as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable, in the targeted service areas forming the basis of the project;

*f.* No change.

ITEM 13. Amend paragraph **22.5(1)“b”** as follows:

*b.* As required by Iowa Code section 8B.11(3) ~~as amended by 2019 Iowa Acts, House File 772,~~ the period for public comment will include the opportunity for the public to submit factual information as part of a validation process to address claims that a targeted service area forming the basis of an application received by the office is currently served with broadband service at or above the download and upload speeds specified in ~~the definition of targeted service area~~ Iowa Code section 8B.11(5)“a” or “b” as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable. Examples of such factual information the office would consider particularly probative of current service include:

(1) Signed attestations submitted to the office under penalty of perjury on forms provided by the office that such targeted service areas are currently served with broadband service at or above the download and upload speeds specified in ~~the definition of targeted service area~~ Iowa Code section 8B.11(5)“a” or “b” as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable.

(2) Bills or invoices provided to or received by customers in such targeted service areas which identify current broadband service at or above the download and upload speeds specified in ~~the definition of targeted service area~~ Iowa Code section 8B.11(5)“a” or “b” as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable.

To the extent such factual information is credible and verifiable, the office may consider such factual information in considering the relative need factor set forth in Iowa Code section 8B.11(4)“a” and paragraph 22.5(3)“a” in determining whether, to which projects, and in what amount(s) to award grant funds. In addition, to the extent such factual information is credible and verifiable, such factual information may result in the disqualification of a project where the factual information demonstrates that a material portion of the proposed project is currently served with broadband service at or above the download and upload speeds specified in ~~the definition of targeted service area~~ Iowa Code section 8B.11(5)“a” or “b” as enacted by 2020 Iowa Acts, Senate File 2400. Further, to the extent such factual information is credible and verifiable, the office may incorporate such factual information into its next renewed determination of whether a communications service provider offers or facilitates broadband service at or above the download or upload speeds specified in the definition of targeted service area and thereby subsequent iteration of the statewide map, as determined and updated in accordance with Iowa Code section 8B.10(1) as amended by ~~2019 Iowa Acts, House File 772,~~ 2020 Iowa Acts, Senate File 2400, and rules 129—20.3(8B,427) and 129—20.4(8B,427).

ITEM 14. Amend subrule 22.5(3) as follows:

**22.5(3) Office final decision.** Following the office’s receipt of the review committee’s input or recommendations and the closure of the period for public comment, the office will review all applications received by the deadline and otherwise warranting review in accordance with the terms, conditions, and requirements of the NOFA, these rules, and Iowa Code chapter 8B; the input/recommendations made by the review committee; and any public comment received, all in accordance with the terms, conditions, and requirements of the NOFA, these rules, and Iowa Code chapter 8B, and make a final agency decision regarding whether, to which projects, and in what amount(s) to award grant funds for the installation of broadband infrastructure that facilitates broadband service in targeted service areas at or above the download and upload speeds specified in ~~the definition of targeted service area~~ Iowa Code section 8B.11(5)“a” or “b” as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable.

*a.* In so doing, the office will take into consideration the following factors, in accordance with and in the manner specified by the terms, conditions, and requirements of the NOFA, affording the greatest weight to the factors in subparagraphs 22.5(3)“a”(1), 22.5(3)“a”(2), and 22.5(3)“a”(3):

(1) No change.

(2) The applicant’s total proposed budget for the project, including ~~the~~ all of the following:

1. The amount or percentage of local or federal matching funds, if any, and any funding obligations shared between public and private entities,~~and the~~

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2. The percentage of funding provided directly from the applicant, including whether the applicant requested from the office an amount less than the maximum amount the office could award pursuant to Iowa Code section 8B.11(5) as amended by 2020 Iowa Acts, Senate File 2400, and, if so, the percentage of the project cost that the applicant is requesting.

(3) and (4) No change.

(5) The percentage of ~~the homes, schools, and businesses~~ broadband units in the targeted service area(s) forming the basis of the project that will be provided access to broadband service at or above the download and upload speeds specified in ~~the definition of targeted service area~~ Iowa Code section 8B.11(5) "a" or "b" as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable, as a result of the project. The number of ~~homes, schools, and businesses~~ broadband units in a targeted service area ~~may shall~~ be determined by reference to the statewide map referenced in rule 129—20.4(8B,427). ~~To the extent possible in light of the current unit of measurement incorporated into current maps and data sources relied on by the office (i.e., census blocks), considering~~ Considering this factor is the means by which the office ensures underserved areas within targeted service areas are, to the extent possible, reduced or eliminated.

(6) to (8) No change.

*b.* In determining whether, to which projects, and in what amount(s) to award grant funds, the office will not do any of the following:

(1) Base its decision on the office's prior knowledge of any applicant except for information obtained by the office during the application process or period for public comment; ~~or~~

(2) Make an award that exceeds ~~45~~ 35 percent of any communications service provider's total estimated allowable project costs for a proposed installation of broadband infrastructure; ~~or~~

(3) Award grant funds in a manner that violates or is otherwise inconsistent with the limitations or requirements of Iowa Code section 8B.11(5) as amended by 2020 Iowa Acts, Senate File 2400.

ITEM 15. Amend subrules 22.6(2) and 22.6(3) as follows:

**22.6(2) Mapping data required.** Upon project completion, a grantee must supply the office with geographic information system (GIS) data in a form mutually acceptable to both the office and grantee demonstrating specifically where broadband infrastructure for which grant funds have been utilized, in whole or in part, has been installed, regardless of whether such infrastructure actually serves any customers in targeted service area(s) forming a basis of the application at the time such mapping data is supplied to the office. Such GIS data must enable the office to determine which specific ~~homes, schools, and businesses~~ broadband units within each targeted service area forming the basis of the project have access to broadband service at or above the download and upload speeds specified in ~~the definition of targeted service area~~ Iowa Code section 8B.11(5) "a" or "b" as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable, as a result of the project.

**22.6(3) Reimbursements, record keeping/audits, performance/certification, and repayment.** In the absence of more specific provisions in an agreement executed between a grantee and the office in accordance with these rules establishing conflicting or inconsistent terms and conditions, the following terms and conditions shall apply by default to any award of grant funds made by the office under Iowa Code section 8B.11 and these rules:

*a. Reimbursement.*

(1) General. A grantee shall only be reimbursed by the office for:

1. No change.

2. Expenditures for broadband infrastructure solely to the extent such broadband infrastructure facilitates broadband service at or above the download and upload speeds specified in ~~the definition of targeted service area~~ Iowa Code section 8B.11(5) "a" or "b" as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable, within targeted service areas forming the basis of the project; and

3. No change.

(2) No change.

*b. Performance/certification.* After the completion of a project utilizing, in whole or in part, grant funds, a grantee must:

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(1) Certify to the office that the project was completed as proposed in the original application, including but not limited to that the final installation facilitates broadband service at or above the download and upload speeds specified in ~~the definition of targeted service area~~ Iowa Code section 8B.11(5) "a" or "b" as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable, in each of the applicable targeted service areas identified in the original application, and identify the total number of ~~homes, schools, and businesses~~ broadband units actually receiving broadband service in each of the targeted service areas identified in the original application as a result of the project.

(2) Attest that any claimed, allowable expenditures are true and accurate, were directly related to the installation of broadband infrastructure that facilitates broadband service at or above the download and upload speeds specified in ~~the definition of targeted service area~~ Iowa Code section 8B.11(5) "a" or "b" as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable, in eligible targeted service areas forming the basis of the project, and were properly allocated in accordance with the terms, conditions, and requirements of the NOFA or grant agreement.

(3) No change.

*c. Field testing.* The office may, in its discretion, conduct field tests, on one or multiple occasions, for compliance with the requirements of Iowa Code sections 8B.1 and 8B.11, these rules, and any grant agreement entered into between a grantee and the office pursuant to subrule 22.6(1) for up to five years after broadband service is certified as complete in accordance with paragraph 22.6(3) "b." The office may exercise this right both before and after reimbursing a grantee for any claimed, allowable expenditures, but if the office elects to do so before reimbursing a grantee for any claimed, allowable expenditures, it will do so within a reasonable time, not to exceed one year, after broadband service is certified as complete in accordance with paragraph 22.6(3) "b." Such field tests may include but not be limited to:

(1) Speed tests anywhere between a grantee's central office and the demarcation at any customer's location in a targeted service area or ~~census~~ broadband block in which the project was to be deployed;

(2) In the case of wireless installations, from any location in a targeted service area or ~~census~~ broadband block in which the project was to be deployed; or

(3) In the case where a grantee does not have a customer in a targeted service area being served by the installation, certification obtained by the grantee and supplied to the office from an independent third party who is a properly licensed engineer that the installation facilitates broadband service at or above the download and upload speeds specified in ~~the definition of targeted service area~~ Iowa Code sections 8B.11(5) "a" or "b" as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable, in applicable targeted service areas identified in the original application. The costs of such certification shall be borne by the grantee.

*d. Disbursement/repayments.*

(1) A grantee shall not be entitled to the applicable portion of any grant funds or shall be obligated to repay the office the applicable portion of any grant funds previously distributed by the office to the grantee if the office determines that:

1. No change.

2. Claimed expenditures or the total amount previously reimbursed by the office exceeds ~~45~~ 35 percent of the grantee's estimated or final total allowable project costs, whichever is less.

(2) A grantee shall not be entitled to any grant funds or shall be obligated to repay the office the entire amount of any grant funds previously distributed by the office to the grantee if the office determines that:

1. Claimed expenditures or a prior reimbursement, in whole or in part, was used for the installation of broadband infrastructure that was not in or does not facilitate broadband service at or above the download and upload speeds specified in ~~the definition of targeted service area~~ Iowa Code section 8B.11(5) "a" or "b" as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable, in a targeted service area identified in the original application;

2. and 3. No change.

*e.* No change.

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ITEM 16. Amend subparagraph **22.6(4)“b”(5)** as follows:

(5) Claimed expenditures or a prior reimbursement, in whole or in part, was used for the installation of broadband infrastructure that does not facilitate broadband service at or above the download and upload speeds specified in ~~the definition of targeted service area~~ Iowa Code section 8B.11(5) “a” or “b” as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable, in a targeted service area identified in the original application;

ITEM 17. Amend subparagraph **22.6(4)“b”(7)** as follows:

(7) The total claimed expenditures or the amount previously reimbursed by the office exceeds ~~15~~ 35 percent of the grantee’s estimated or final total allowable project costs, whichever is less;

ITEM 18. Amend rule 129—22.8(8B,427) as follows:

**129—22.8(8B,427) Targeted service areas subject to challenge.** If at the time a grantee is awarded grant funds the office’s determination of whether a particular ~~census~~ broadband block forming the basis of the grantee’s application, in whole or in part, is a targeted service area currently subject to challenge pursuant to the appeal and contested case procedures set forth in 129—Chapter 20, or the office’s administration of the award process is subject to challenge pursuant to subrule 22.5(4), including any subsequent judicial review or appeal therefrom as outlined in Iowa Code sections 17A.19 and 17A.20, the office may proceed to enter into a grant agreement with the grantee pursuant to subrule 22.6(1). Notwithstanding the foregoing or any contract executed between the parties to the contrary, the aspect(s) of the office’s award(s) that is subject to such challenge at the time of such execution shall be valid and enforceable only to the extent the office’s original determination or award process, as applicable, is ultimately upheld at the end of the entire appeals and contested case process once final, including judicial review and any subsequent appeal. If a ~~census~~ broadband block is ultimately determined to not constitute a targeted service area, or a portion of an award is later deemed invalid, in whole or in part: the grantee shall not be entitled to any grant funds or reimbursement to the extent of any such noneligibility or invalidity; the office may require the grantee to amend the grant agreement to reflect such result; and the grantee will be required to reimburse the office for any corresponding funds previously distributed by the office.

**ARC 5106C**

## **INSPECTIONS AND APPEALS DEPARTMENT[481]**

### **Notice of Intended Action**

#### **Proposing rule making related to licensing sanctions and providing an opportunity for public comment**

The Inspections and Appeals Department hereby proposes to amend Chapter 8, “Licensing Actions for Nonpayment of Child Support and Student Loan Default/Noncompliance with Agreement for Payment of Obligation,” Iowa Administrative Code.

#### *Legal Authority for Rule Making*

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

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 272C.4(10).

#### *Purpose and Summary*

The proposed amendments implement changes made to Iowa Code chapter 272C.4(10) resulting from the enactment of 2019 Iowa Acts, Senate File 304. The legislation required the Department to adopt rules to prohibit the suspension or revocation of a license issued to a person who is in default or is delinquent

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

on repayment or a service obligation under federal or state postsecondary educational loans or public or private services-conditional postsecondary tuition assistance solely on the basis of such default or delinquency.

*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.

*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 18, 2020. Comments should be directed to:

Ashleigh Hackel  
Iowa Department of Inspections and Appeals  
Lucas State Office Building  
321 East 12th Street  
Des Moines, Iowa 50319  
Email: [ashleigh.hackel@dia.iowa.gov](mailto:ashleigh.hackel@dia.iowa.gov)

*Public Hearing*

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

*Review by Administrative Rules Review Committee*

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

The following rule-making actions are proposed:

ITEM 1. Amend **481—Chapter 8**, title, as follows:

LICENSING ACTIONS ACTION FOR NONPAYMENT OF CHILD SUPPORT  
AND PROHIBITION OF LICENSING ACTION FOR STUDENT LOAN  
DEFAULT/NONCOMPLIANCE  
WITH AGREEMENT FOR PAYMENT OF OBLIGATION

ITEM 2. Amend **481—8.1(252J)**, implementation sentence, as follows:

~~These rules are~~ This rule is intended to implement Iowa Code chapter 252J.

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

ITEM 3. Rescind rule 481—8.2(261) and adopt the following **new** rule in lieu thereof:

**481—8.2(272C) Licensing actions against individuals who default or are delinquent on student loan debt or on a related service obligation prohibited.** The department shall not deny the issuance or renewal of a license or suspend or revoke a license to a person who is in default or is delinquent on repayment or a service obligation under federal or state postsecondary educational loans or public or private services-conditional postsecondary tuition assistance solely on the basis of such default or delinquency.

This rule is intended to implement Iowa Code section 272C.4.

ITEM 4. Rescind and reserve rule **481—8.3(261)**.

ITEM 5. Rescind **481—Chapter 8**, implementation sentence.

**ARC 5109C**

**INSURANCE DIVISION[191]**

**Notice of Intended Action**

**Proposing rule making related to contested case proceedings and providing an opportunity for public comment**

The Insurance Division hereby proposes to amend Chapter 3, “Contested Cases,” and Chapter 4, “Agency Procedure for Rule Making, Waiver of Rules, and Declaratory Orders,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 505.8 and 507B.12.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapters 17A and 507B.

*Purpose and Summary*

The proposed amendments are a result of the Division’s review of rules. The amendments update Chapter 3 by removing unnecessary language, removing duplicative definitions, clarifying procedures, reflecting current practices, allowing for electronic processes, and more closely aligning some procedures to other agencies and the Iowa Rules of Civil Procedure.

Rule 191—3.11(17A), regarding pleadings for intervention, is proposed to be rescinded and reserved, and a new rule regarding pleadings for intervention in declaratory actions is proposed to be adopted.

*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*

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

INSURANCE DIVISION[191](cont'd)

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received no later than 4 p.m. on August 25, 2020. Comments should be directed to:

Tracy Swalwell  
Iowa Insurance Division  
Two Ruan Center  
601 Locust Street, Fourth Floor  
Des Moines, Iowa 50309  
Phone: 515.725.1249  
Fax: 515.281.3059  
Email: [tracy.swalwell@iid.iowa.gov](mailto:tracy.swalwell@iid.iowa.gov)

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held via conference call, with no in-person attendance, as follows:

August 25, 2020  
11 a.m. to 12 noon

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.

Persons wishing to attend the conference call hearing should contact Tracy Swalwell. A conference call number will be provided prior to the hearing. Persons who wish to make oral comments at the conference call public hearing must submit a request to Tracy Swalwell prior to the hearing to facilitate an orderly hearing. Persons may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

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

*Review by Administrative Rules Review Committee*

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

The following rule-making actions are proposed:

ITEM 1. Amend rule 191—3.2(17A) as follows:

**191—3.2(17A) Definitions.** ~~Except~~ In addition to the definitions in rule 191—1.1(502,505), and except where otherwise specifically defined by law or the context otherwise requires, the following definitions apply:

~~“Commissioner” means the commissioner of insurance or the commissioner’s designee.~~

~~“Contested case” means a proceeding defined by Iowa Code section 17A.2(5), and includes any matter defined as a no factual dispute contested case under 1998 Iowa Acts, chapter 1202, section 14~~  
Iowa Code section 17A.10A.

“File,” “filed,” or “filing,” when used as a verb, means the actions set forth in subrules 3.12(3) and 3.12(4), except otherwise specifically defined by law. “Filing,” when used as a noun, means the documents filed.

## INSURANCE DIVISION[191](cont'd)

*“Issuance”* means the date of mailing of a decision or order or the date of delivery if service is by other means, unless another date is specified in the order.

*“License”* means the whole or a part of any permit, certificate, approval, registration, charter or similar form of permission required by statute.

*“Licensee”* means a person or entity to whom the division has issued a license.

*“Party”* means ~~each person or agency named or admitted as a party or properly seeking and entitled as of right to be admitted as a party~~ the same as defined in Iowa Code section 17A.2.

*“Person”* means the same as defined in Iowa Code section 17A.2.

*“Provision of law”* means the same as defined in Iowa Code section 17A.2.

*“Presiding officer”* means the commissioner, the commissioner’s designee or an administrative law judge from the department of inspections and appeals.

*“Proposed decision”* means the administrative law judge’s or the commissioner’s designee’s recommended findings of fact, conclusions of law, decision, and order in a contested case in which the commissioner did not preside.

ITEM 2. Amend rules 191—3.4(17A) to 191—3.9(17A) as follows:

**191—3.4(17A) Requests for contested case proceeding.** Any person claiming an entitlement to a contested case proceeding shall file a written request for such a proceeding within the time specified by the particular rules or statutes governing the subject matter or, in the absence of such law, the time specified in the ~~agency division~~ action in question. The request shall be filed with the ~~insurance~~ division, at the address disclosed in rule 191—1.4(502,505).

The request for a contested case proceeding shall state the name and address of the requester; ~~identify the specific agency division action which is disputed if applicable; include a short and plain statement of the issues of material fact in dispute; and, where the requester is represented by a lawyer, identify the provisions of law or precedent requiring or authorizing a contested case proceeding in the particular circumstances involved, and shall include a short and plain statement of the issues of material fact in dispute.~~

**191—3.5(17A,507B) Commencement of hearing; service; delivery; notice of hearing; answer.**

**3.5(1) Service and delivery of the notice of hearing.**

*a. Commencement of hearing.* Delivery of the notice of hearing referred to in this rule constitutes commencement of the contested case proceeding.

*b. Delivery of the notice of hearing.* Delivery shall be accomplished ~~in the manner described below~~ by personal service as provided in the Iowa Rules of Civil Procedure or by certified mail, return receipt requested, at least 15 days before the hearing date unless the parties agree to a shorter time period, or unless otherwise provided by statute.

*a. For nonlicensed persons, delivery may be accomplished by:*

- ~~(1) Personal service as provided in the Iowa Rules of Civil Procedure; or~~
- ~~(2) Certified mail, return receipt requested; or~~
- ~~(3) First class mail; or~~
- ~~(4) Publication, as provided in the Iowa Rules of Civil Procedure.~~

*b. For licensees, delivery shall be executed by:*

- ~~(1) Personal service as provided in the Iowa Rules of Civil Procedure; or~~
- ~~(2) Restricted certified mail.~~

Proof of delivery by mail is the same as proof of mailing specified in subrule 3.12(5).

*c. Consent to service upon the commissioner.* Certain persons regulated by the division have an obligation to keep their contact information, including their mailing address, current. For such persons who have consented in writing to have the commissioner accept service of process on their behalf, delivery of the notice of hearing referred to in this rule is accomplished at the time the notice of hearing is signed by the commissioner, unless otherwise provided by law.

**3.5(2) Notice of hearing.** The notice of hearing shall be prepared in the form of an order and contain the following information in the notice of hearing or accompanying charging document:



## INSURANCE DIVISION[191](cont'd)

a. to c. No change.

d. A short and plain statement of the matters asserted. If the insurance division or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon written application, a more definite and detailed statement shall be furnished;

e. to g. No change.

h. Identification of the presiding officer and address, if known. If not known, a general description of the type of person who generally will serve as presiding officer; and

i. Notification of the time period in which a party may request, under ~~1998 Iowa Acts, chapter 1202, section 15(1), and rule 191—3.6(17A)~~, that the presiding officer be an administrative law judge;

j. Notification that failure to file an answer within 20 days of service may result in default pursuant to rule 191—3.22(17A); and

k. Reference to the procedural rules governing discovery.

**3.5(3) Answer.** An answer shall be filed within 20 days of service of the notice of hearing unless otherwise ordered. A party may move to dismiss or apply for a more definite and detailed statement of the matters asserted or charging document when appropriate.

a. An answer shall show on whose behalf it is filed and specifically admit, deny, or otherwise answer all material allegations of the notice of hearing or accompanying charging document. The answer shall state any facts deemed to show an affirmative defense and contain as many additional defenses as the pleader may claim.

b. No change.

c. Any allegation in the notice of hearing or accompanying charging document not denied in the answer is considered admitted. The presiding officer may refuse to consider any defense not raised in the answer which could have been raised on the basis of facts known when the answer was filed if any party would be prejudiced.

d. The answer shall be filed with the division pursuant to rule 191—3.12(17A).

**3.5(4) Amendments.** Any notice of hearing or other charging document may be amended before a responsive pleading has been filed. Amendments to a notice of hearing or charging document after a responsive pleading has been filed and amendments to an answer may be allowed with the consent of the other parties or in the discretion of the presiding officer who may impose terms or grant a continuance.

**3.5(5) Timing of hearing.** The hearing in a contested case proceeding shall be held within 90 days after the date of the notice of hearing, subject to the provisions of rule 3.17(17A) commencement of the contested case unless a continuance is granted by the presiding officer.

### **191—3.6(17A) Presiding officer.**

**3.6(1)** If the presiding officer is not an administrative law judge, any party wishing to request that the presiding officer assigned to render a proposed decision be an administrative law judge employed by the department of inspections and appeals must file a written request with the insurance division within 20 days after service of a notice of hearing identifying or describing the presiding officer as the commissioner or ~~members of the commissioner's staff~~ designee.

**3.6(2)** The commissioner may deny the request only upon a finding that one or more of the following apply:

a. to i. No change.

j. The contested case arises from matters asserted pursuant to Iowa Code ~~chapters~~ chapter 507A, 507B, 508B, 515G and or 521A.

**3.6(3) and 3.6(4)** No change.

**3.6(5)** Except as ~~provided~~ otherwise provided by another provision of law, all rulings by an administrative law judge acting as presiding officer are subject to appeal to the commissioner. A party must seek any available intra-agency appeal in order to exhaust adequate administrative remedies.

**191—3.7(17A) Waiver of procedures.** Unless otherwise precluded by law, the parties in a contested case proceeding may waive any provision of this chapter. However, the insurance division may exercise

## INSURANCE DIVISION[191](cont'd)

discretion to refuse to give effect to such a waiver when the waiver is to be inconsistent with the public interest.

**191—3.8(17A) Telephone, video, or electronic proceedings.**

**3.8(1)** The presiding officer may resolve preliminary procedural motions by telephone conference, videoconference or other electronic means in which all parties have been afforded notice and an opportunity to participate.

**3.8(2)** The presiding officer may, on the officer's own motion or as requested by a party, order hearings or argument to be held by telephone conference, videoconference or other electronic means in which all parties have an opportunity to participate. Any party may call witnesses by telephone conference, videoconference or other electronic means, with 14 days' advance notice to all parties and the presiding officer. Failure of a party to make timely disclosure may result in the disallowance of testimony by telephone conference, videoconference or other electronic means.

**191—3.9(17A) Disqualification.**

**3.9(1)** No change.

**3.9(2)** The term "personally investigated" means taking affirmative steps to interview witnesses directly or to obtain documents or other information directly. The term "personally investigated" does not include general direction and supervision of assigned investigators, unsolicited receipt of information which is relayed to assigned investigators, review of another person's investigative work product in the course of determining whether there is probable cause to initiate a proceeding, or exposure to factual information while performing other agency functions, including fact gathering for purposes other than investigation of the matter which culminates in a contested case. Factual information relevant to the merits of a contested case received by a person who later serves as presiding officer in that case shall be disclosed if required by Iowa Code section 17A.17 ~~as amended by 1998 Iowa Acts, chapter 1202, section 19,~~ and subrules 3.9(3) and 3.23(9).

**3.9(3)** No change.

**3.9(4)** To request disqualification of a presiding officer, a party shall file a motion supported by an affidavit pursuant to ~~1998 Iowa Acts, chapter 1202, section 19(7)~~ Iowa Code section 17A.17(7). The motion shall be filed as soon as practical after the reason alleged in the motion becomes known to the party. If, during the course of the hearing, a party first becomes aware of evidence of bias or other grounds for disqualification, the party may move for disqualification but shall establish the grounds by the introduction of evidence into the record.

If the presiding officer determines that disqualification is appropriate, the presiding officer shall withdraw. If the presiding officer determines that withdrawal is not required, the presiding officer shall enter an order to that effect. A party requesting disqualification may seek an interlocutory appeal under rule 191—3.25(17A) and seek a stay under rule 191—3.29(17A).

ITEM 3. Rescind and reserve rule **191—3.11(17A)**.

ITEM 4. Amend rules 191—3.12(17A) to 191—3.14(17A) as follows:

**191—3.12(17A) Service and filing of pleadings and other papers.**

**3.12(1)** Required service. Every pleading, motion, document, or other paper that is filed in a contested case proceeding and every ~~paper relating to~~ discovery request or response in such a proceeding shall be served upon each of the parties of record to the proceeding, including the person designated as advocate or prosecutor for the ~~insurance~~ division, at no later than the time of filing, if filing is required. Except for an application for rehearing as provided in Iowa Code section 17A.16(2), the party filing a document is responsible for service on all parties.

**3.12(2)** Methods of service. Service upon a party represented by an attorney shall be made upon the attorney of record unless otherwise ordered. Service is made by delivering or mailing a copy to the attorney at the attorney's last-known mailing address. Service upon an unrepresented party shall be made by delivering or mailing a copy to the party's last-known mailing address. Service by mail is complete upon mailing, except where otherwise specifically provided by statute, rule, or order. Service may also

## INSURANCE DIVISION[191](cont'd)

be made upon a party or attorney by email if the party or attorney consents in writing to be served in that manner in that case. The party or attorney may consent by providing an email address for service to the other party or by filing a document with the division by email as specified in subrule 3.12(4). The consent may be withdrawn by written notice served on all other parties or attorneys. Service by electronic means is complete upon transmission to the provided email address unless the party making service received an electronic rejection or delivery failure.

**3.12(3) Required filing.** After the notice of hearing, all pleadings, motions, ~~documents or other papers~~ and notices of discovery in a contested case proceeding shall be filed with the ~~presiding officer~~ division's designated filing clerk. If a contested case is assigned to an administrative law judge with the department of inspections and appeals, filing shall be conducted in accordance with the rules of the department of inspections and appeals, unless ordered otherwise.

**3.12(4) Methods of filing.** Except where otherwise provided by law, a document is deemed filed at the time it is ~~delivered~~ hand-delivered to the ~~presiding officer~~ division at the address disclosed in rule 191—1.4(502,505) during normal business hours, delivered to an established courier service for immediate delivery to that office during normal business hours, or mailed by first-class mail or state interoffice mail to that office, so long as there is proof of mailing, or emailed to the designated filing clerk at enforcement.filings@iid.iowa.gov.

**3.12(5) Proof of mailing.** Proof of mailing includes either: a legible United States Postal Service postmark on the envelope, a certificate of service, a notarized affidavit, or a certification in substantially the following form:

I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the Insurance Division at the address disclosed in 191—1.4(502,505) and to the names and addresses of the parties listed below by depositing the same in (a United States post office mailbox with correct postage properly affixed or state interoffice mail).

(Date)

(Signature)

**3.12(6) Proof of emailing.** ~~The presiding officer, by order, may permit service or filing of particular documents by facsimile or electronic mail or similar electronic means unless such service or filing is precluded by a provision of law. When permitted, service by facsimile, electronic mail or similar electronic means is complete upon transmission. In the absence of such an order, facsimile or electronic transmission does not satisfy service or filing requirements, but may be used to supplement service or filing when rapid notice is needed.~~ Proof of emailing includes a certification in substantially the following form:

I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of emailing), I emailed copies of (describe document) addressed to the Insurance Division at the email address disclosed in 191—subrule 3.12(4) and to the names and email addresses of the parties listed below by transmitting the same from (sending email address).

(Date)

(Signature)

### **191—3.13(17A) Discovery.**

**3.13(1) Discovery permitted.** Where statutory time limitations permit, discovery may be conducted as permitted by the Iowa Rules of Civil Procedure and these rules. ~~Unless lengthened or shortened by these rules or by order of the presiding officer, time periods for compliance with discovery shall be as provided in the Iowa Rules of Civil Procedure.~~ Discovery shall be conducted in an expedited manner to prevent unnecessary delays to the hearing.

**3.13(2) Scope of discovery.** Parties may obtain discovery regarding any matter, not privileged or confidential, which is relevant to the claim or defense of the party in the pending action seeking discovery or to the claim or defense of any other party. Discovery responses are subject to the confidentiality provisions of Iowa Code section 22.7, chapters under the jurisdiction of the commissioner, and rule

INSURANCE DIVISION[191](cont'd)

191—3.12(17A), in accordance with applicable law, including, but not limited to, Iowa Code sections 17A.13(2) and 522B.11(6), unless otherwise permitted by the presiding officer for good cause shown.

**3.13(3) Notice of discovery.** Discovery is only permitted after a party has filed, pursuant to rule 191—3.12(17A), a notice of discovery no later than 15 days after the filing of an answer unless extended by the presiding officer for good cause shown or by agreement of the parties. The notice of discovery shall be a general notice that the party is serving discovery. The notice should include a statement regarding the type of discovery being conducted and the due date but the actual discovery requests do not need to be filed.

**3.13(4) Discovery responses.** Parties must respond to discovery within 15 days of receipt unless the parties mutually agree there is good cause to lengthen the response period or by order of the presiding officer. Time periods for compliance with discovery may be lengthened or shortened by order of the presiding officer.

**3.13(5) Discovery completion.** All discovery must be completed no later than 30 days before the prehearing conference.

~~3.13(2)~~ **3.13(6) Discovery motions.** Any motion relating to discovery shall must allege that the moving party has previously made a good-faith attempt to resolve the discovery issues involved with the opposing party in a timely manner. Motions in regard to discovery shall be ruled upon by the presiding officer. Opposing parties shall be afforded the opportunity to respond within ten days of the filing of the any such motion unless the time is shortened as provided in subrule ~~3.13(4)~~ 3.13(4). The presiding officer may rule on the basis of the written motion and any response, or may order argument on the motion.

#### **191—3.14(17A,505) Subpoenas.**

**3.14(1)** A subpoena shall be issued by the presiding officer at a party's request. Such a request must be in writing. In the absence of good cause for permitting later action, a request for a subpoena must be received at least ten days before the scheduled hearing. The request shall include the name, address, and telephone number of the requesting party.

a. A request for a subpoena must be in writing and submitted to the presiding officer or designated filing clerk by mail, email, or in-person delivery in accordance with the filing requirements of rule 191—3.12(17A).

b. The request shall include the names of the parties, the case number, the name and address of the requested witness, and a description or list of any documents or other items requested. The request shall also note the nature of the proceeding at which the witness is requested to testify (e.g., deposition, telephone hearing, or in-person hearing), the date and time of the proceeding, whether the witness is requested to appear in person or by telephone, the location of the proceeding, and the method of recording any deposition.

c. In the absence of good cause for permitting later action, a request for a subpoena must be received at least ten days before the scheduled proceeding.

**3.14(2)** Except to the extent otherwise provided by law, parties are responsible for service of their own subpoenas and payment of witness fees and mileage expenses. The requesting party is responsible for arranging service of a subpoena prior to the proceeding at which the testimony is commanded or the time at which the requested documents must be produced. The requesting party is responsible for any cost associated with serving a subpoena and for the payment of witness fees and mileage expenses. Subpoenaed witnesses shall be entitled to receive witness fees for attendance, paid pursuant to Iowa Code section 622.69, and mileage shall be paid for each mile actually traveled for a subpoenaed witness to participate in an in-person hearing or deposition pursuant to Iowa Code section 622.72. Witnesses called to testify only to an opinion founded on special study or experience in any branch of science, or to make scientific or professional examinations and state the result thereof, may receive additional compensation, to be fixed by the presiding officer, with reference to the value of the time employed and the degree of learning or skill required, but such additional compensation shall not exceed the sum set forth in Iowa Code section 622.72.

**3.14(3)** No change.

## INSURANCE DIVISION[191](cont'd)

ITEM 5. Amend subrule 3.15(4) as follows:

**3.15(4)** Motions pertaining to the hearing, except motions for summary judgment and requests for continuances, must be filed and served at least ten days prior to the date of hearing unless there is good cause for permitting later action or the time for such action is lengthened or shortened by an order of the presiding officer.

ITEM 6. Amend rule 191—3.16(17A) as follows:

**191—3.16(17A) Prehearing conference.**

**3.16(1)** Any party may request a prehearing conference. A written request for prehearing conference or an order for prehearing conference on the presiding officer's own motion shall be filed not less than 14 days prior to the hearing date. A prehearing conference shall be scheduled not less than ~~three~~ seven business days prior to the hearing date.

The presiding officer shall give written notice of the prehearing conference to all parties.

**3.16(2)** Prehearing conferences ~~shall~~ may be conducted by telephone conference or videoconference or in person as stated in the notice of hearing, unless otherwise ordered by the presiding officer.

**3.16(3)** No change.

**3.16(4)** Witness or exhibit lists may be amended subsequent to the prehearing conference within time limits established by the presiding officer at the prehearing conference. If no time limits are established at the prehearing conference, subsequent amendments to a witness or exhibit list may be allowed with the consent of the other parties or in the discretion of the presiding officer who may impose terms and time limits. Any such amendments must be served on all parties.

**3.16(5)** No change.

ITEM 7. Amend rule 191—3.19(17A), parenthetical implementation statute, as follows:

**191—3.19(17A,507B) Intervention.**

ITEM 8. Amend paragraph **3.20(2)“d”** as follows:

*d.* Each witness shall be sworn or affirmed by the presiding officer, ~~or~~ the court reporter, or a person otherwise authorized by law, and be subject to examination and cross-examination. The presiding officer may limit questioning in a manner consistent with law; and

ITEM 9. Amend rule 191—3.21(17A), parenthetical implementation statute, as follows:

**191—3.21(17A,507B) Evidence.**

ITEM 10. Amend rule 191—3.22(17A) as follows:

**191—3.22(17A) Default.**

**3.22(1)** If a party fails to appear or participate in a contested case proceeding after proper service of notice as provided in subrule 3.5(1), the presiding officer may, if no adjournment is granted, enter a default decision or proceed with the hearing and render a decision in the absence of the party.

**3.22(2)** No change.

**3.22(3)** Default decisions or decisions rendered on the merits after a party has failed to appear or participate ~~become~~ constitute final agency division action unless, one of the following occurs: (1) the presiding officer otherwise orders, (2) a motion to vacate the default decision is filed within 15 days after the date of notification or mailing of the decision, a motion to vacate is filed and served on all parties or an appeal of a decision on the merits is timely initiated within the time provided by rule 3.27(17A) in accordance with rule 191—3.12(17A), or (3) an appeal to the commissioner of a proposed default decision is filed in accordance with rule 191—3.27(17A). A motion to vacate must be filed and served on all parties and state all facts relied upon by the moving party which establish that good cause existed for that party's failure to appear or participate at the contested case proceeding. Each fact so stated must be substantiated by at least one sworn affidavit of a person with personal knowledge of each such fact, which affidavit(s) must be attached to the motion.

**3.22(4)** No change.

## INSURANCE DIVISION[191](cont'd)

~~3.22(5) Properly substantiated and timely filed motions to vacate shall be granted only for good cause shown.~~ A motion to vacate shall be granted only when it is timely filed, is properly substantiated, and demonstrates good cause for the party's failure to appear or participate. The burden of proof as to good cause is on the moving party. Adverse parties shall have ten days to respond to a motion to vacate. Adverse parties shall be allowed to conduct discovery as to the issue of good cause and to present evidence on the issue prior to a decision on the motion, if a request to do so is included in that party's response.

**3.22(6) to 3.22(10)** No change.

ITEM 11. Amend subrule 3.23(9) as follows:

**3.23(9)** The presiding officer may render a proposed or final decision imposing appropriate sanctions for violations of this rule including default, a decision against the offending party, censure, or suspension or revocation of the privilege to practice before the agency division. Violation of ex parte communication prohibitions by agency division personnel shall be reported to the first deputy commissioner or designee for possible sanctions including censure, suspension, dismissal or other disciplinary action.

ITEM 12. Amend rule 191—3.26(17A) as follows:

**191—3.26(17A) Final decision.**

**3.26(1)** No change.

**3.26(2)** When the commissioner does not preside over the reception of evidence, the presiding officer shall make a proposed decision. The proposed decision becomes the final decision of the agency division when adopted by the commissioner or without further proceedings after the time provided in rule 191—3.27(17A) unless there is an appeal to, or review on motion of, the commissioner within the time provided in rule 3.27(17A) the commissioner or motion by the division to review the proposed decision.

**3.26(3)** The presiding officer's decision shall specify in bold print either that the decision is final or that the decision shall become final without further proceedings after the time provided in rule 191—3.27(17A) unless there is an appeal to, or review on motion of, the commissioner within the time provided in rule 191—3.27(17A).

**3.26(4)** No change.

**3.26(5)** Parties shall be promptly notified of each proposed or final decision or order by delivery to them of a copy of such decision or order in the manner provided by Iowa Code section 17A.12(1) unless the party has consented to an alternative form of delivery.

ITEM 13. Amend rule 191—3.27(17A), catchwords, as follows:

**191—3.27(17A) Appeals and review by the commissioner of proposed decisions.**

ITEM 14. Amend subrule 3.27(2) as follows:

**3.27(2)** The ~~insurance~~ division may initiate review of a proposed decision on its own motion at any time within 30 days following issuance of such a decision.

ITEM 15. Amend subrule 3.28(2) as follows:

**3.28(2)** The application for rehearing shall state on whose behalf it is filed, the specific grounds for rehearing, and the relief sought. In addition, the application shall state whether the applicant desires reconsideration of all or part of the agency division decision on the existing record and whether, on the basis of the grounds enumerated in subrule 3.27(5), the applicant requests an opportunity to submit additional evidence.

ITEM 16. Amend subrule 3.28(4) as follows:

**3.28(4)** A copy of the application shall be timely mailed by the ~~applicant~~ division to all parties of record not joining therein. ~~If if~~ the application does not contain a certificate of service, ~~the division shall serve copies on all parties~~ demonstrating service on all parties.

## INSURANCE DIVISION[191](cont'd)

ITEM 17. Amend rule 191—3.29(17A) as follows:

**191—3.29(17A) Stay of agency division action.**

**3.29(1)** Petition requirements for stay of agency division action:

*a.* Any party to a contested case proceeding may petition the commissioner for a stay of an order issued in that proceeding or for other temporary remedies, pending review by the agency division. The petition shall be filed with the notice of appeal and shall state the reasons justifying a stay or other temporary remedy. The commissioner may rule on the stay or authorize the presiding officer to do so.

*b.* No change.

**3.29(2)** In determining whether to grant a stay, the presiding officer or commissioner shall consider the factors listed in ~~1998 Iowa Acts, chapter 1202, section 23(5e)~~ Iowa Code section 17A.19(5).

**3.29(3)** Any petition for stay of division action shall be deemed denied unless the commissioner grants the application within 20 days after its filing.

~~3.29(3)~~ **3.29(4)** A stay may be vacated by the issuing authority upon application of the commissioner or any other party.

ITEM 18. Amend rule 191—3.31(17A) as follows:

**191—3.31(17A) Emergency adjudicative proceedings.**

**3.31(1)** To the extent necessary to prevent or avoid immediate danger to the public health, safety, or welfare, and consistent with the Constitution and other provisions of law, the ~~insurance~~ insurance division may issue a written order in compliance with ~~1998 Iowa Acts, chapter 1202, section 21,~~ Iowa Code section 17A.18A to suspend a license in whole or in part, order the cessation of any continuing activity, order affirmative action, or take other action within the jurisdiction of the division by emergency adjudicative order. Before issuing an emergency adjudicative order the division shall consider factors including, but not limited to, the following:

*a. to f.* No change.

**3.31(2)** An emergency adjudicative order shall contain findings of fact, conclusions of law, and policy reasons to justify the determination of an immediate danger in the ~~insurance~~ insurance division's decision to take immediate action.

*a.* The written emergency adjudicative order shall be immediately delivered to persons who are required to comply with the order by utilizing ~~one or more of the following procedures:~~ the procedures specified in subrule 3.5(1).

~~(1) For nonlicensed persons, delivery may be executed by:~~

~~1. Personal service as provided in the Iowa Rules of Civil Procedure; or~~

~~2. Certified mail, return receipt requested; or~~

~~3. First-class mail; or~~

~~4. Publication, as provided in the Iowa Rules of Civil Procedure; or~~

~~5. Facsimile or other electronic transmission. Facsimile or other electronic transmission may be used as the sole method of delivery if the person required to comply with the order has filed a written request that agency orders be sent by facsimile and has provided a fax number for that purpose.~~

~~(2) For licensees, delivery shall be executed by:~~

~~1. Personal service as provided in the Iowa Rules of Civil Procedure; or~~

~~2. Restricted certified mail.~~

*b.* If practical, the ~~insurance~~ insurance division shall select the procedure for providing written notice that best ensures prompt, reliable delivery.

**3.31(3)** Unless the written emergency adjudicative order is provided by personal delivery on the same day that the order issues, the ~~insurance~~ insurance division shall make reasonable immediate efforts to contact by telephone the persons who are required to comply with the order.

**3.31(4)** After issuance of an emergency adjudicative order, the ~~insurance~~ insurance division shall proceed as quickly as feasible to complete any proceedings that would be required if the matter did not involve an immediate danger.

INSURANCE DIVISION[191](cont'd)

**3.31(5)** A written emergency adjudicative order shall include notification of the date on which insurance division proceedings are scheduled for completion. After an emergency adjudicative order is issued, continuance of further division proceedings to a later date will be granted only in compelling circumstances, and upon written application.

**3.31(6)** No change.

ITEM 19. Amend rule 191—3.33(17A,502,505) as follows:

**191—3.33(17A,502,505) Informal settlement.**

**3.33(1)** A party to a controversy that may culminate or has culminated in contested case proceedings may attempt informal settlement of the controversy by complying with the procedures set forth in this subrule. No party to a controversy shall be required to settle the controversy or contested case by submitting to informal settlement procedures.

~~a. **3.33(2)** Parties desiring informal settlement shall set forth in writing the various points of a proposed settlement, which may include a stipulated statement including findings of facts.~~

~~b. **3.33(3)** When signed by the parties to a controversy and approved by the commissioner, a proposed settlement shall represent final disposition of the matter in place of contested case proceedings.~~

~~c. **3.33(4)** Where When there are is more than two parties to a controversy involving one party adverse to the insurance division, a separate settlement between one party and the division is permissible.~~

~~d. A proposed settlement which is not accepted or signed by the parties shall not be admitted as evidence in the record of a contested case proceeding.~~

~~**3.33(2)** A party to a contested case proceeding may attempt informal settlement by complying with the procedures set forth in this subrule. No party shall be required to settle the contested case proceeding by submitting to informal settlement procedures.~~

~~a. Parties desiring informal settlement shall set forth in writing the various points of a proposed settlement, which may include a stipulated statement of facts.~~

~~b. When signed by the parties to the contested case proceeding and the presiding officer, a proposed settlement shall represent final disposition of the proceeding.~~

~~c. Where there are more than two parties to a contested case proceeding involving the insurance division, a separate settlement between one party and the division is permissible.~~

~~d. **3.33(5)** A proposed settlement which is not accepted or signed by the parties and the presiding officer commissioner shall not be admitted as evidence in the record of a contested case proceeding. Evidence of conduct or statements made in settlement negotiations likewise are not admissible. This rule does not require exclusion when the evidence is offered for another purpose, such as proving bias or prejudice of a witness, negating a contention of undue delay, or proving an effort to obstruct a criminal investigation or prosecution.~~

ITEM 20. Rescind and reserve rule **191—3.34(17A,502,505)**.

ITEM 21. Amend rule **191—4.2(17A)**, definition of “Waiver,” as follows:

“*Waiver*” means action by the division that suspends in whole or in part the requirements or provisions of a rule as applied to an identified person on the basis of the particular circumstances of that person. ~~For simplicity, the term “variance” as used in Iowa Code chapter 17A is included in this definition of “waiver” for purposes of this chapter.~~

ITEM 22. Adopt the following **new** subrule 4.7(9):

**4.7(9)** Petitions for rule making and the disposition of the petition shall be submitted to the administrative rules review committee pursuant to Iowa Code chapter 17A.



INSURANCE DIVISION[191](cont'd)

ITEM 23. Amend **191—Chapter 4**, division heading, as follows:

DIVISION II  
WAIVER AND VARIANCE OF RULES

ITEM 24. Amend subrule 4.22(4) as follows:

**4.22(4)** Content of petition. A petition for waiver must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

BEFORE THE IOWA INSURANCE COMMISSIONER

In the matter of: (Name of Person  
Requesting Waiver or Variance)



REQUEST FOR WAIVER OF RULE  
(Specify number of rule for which waiver  
is requested)

ITEM 25. Rescind rule 191—4.39(17A) and adopt the following new rule in lieu thereof:

**191—4.39(17A) Intervention.**

**4.39(1)** Persons who qualify under any applicable provision of law as an intervenor and who file a petition for intervention within 20 days of the filing of a petition for declaratory order (after time for notice under rule 191—4.38(17A) and before 30-day time for division action under rule 191—4.44(17A)) shall be allowed to intervene in a proceeding for a declaratory order.

**4.39(2)** Any person who files a petition for intervention at any time prior to the issuance of an order may be allowed to intervene in a proceeding for a declaratory order at the discretion of the division.

**4.39(3)** A petition must be typewritten or legibly handwritten in ink and shall state in separately numbered paragraphs the following:

- a. Facts supporting the intervenor’s standing and qualifications for intervention.
- b. The answers urged by the intervenor to the question or questions presented and a summary of the reasons urged in support of those answers.
- c. Reasons for requesting intervention and disclosure of the intervenor’s interest in the outcome.
- d. A statement indicating whether the intervenor is currently a party to any proceeding involving the questions at issue and whether, to the intervenor’s knowledge, those questions have been decided by, are pending determination by, or are under investigation by any governmental entity.
- e. The names and addresses of any additional persons, or a description of any additional class of persons, known by the intervenor to be affected by, or interested in, the questions presented.
- f. Whether the intervenor consents to be bound by the determination of the matters presented in the declaratory order proceeding.

**4.39(4)** The petition must be dated and signed by the intervenor or the intervenor’s representative. It must also include the name, mailing address, and telephone number of the intervenor and intervenor’s representative, and a statement indicating the person to whom communications should be directed.

**ARC 5112C**

**NATURAL RESOURCE COMMISSION[571]**

**Notice of Intended Action**

**Proposing rule making related to habitat and public access program and providing an opportunity for public comment**

The Natural Resource Commission (Commission) hereby proposes to amend Chapter 22, “Wildlife Habitat on Private Lands Promotion Program and Habitat and Public Access Program,” Iowa Administrative Code.

## NATURAL RESOURCE COMMISSION[571](cont'd)

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 483A.3B(3)“c”(1).

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 483A.3B(3).

*Purpose and Summary*

The Iowa Habitat and Access Program (“IHAP” or “program”) was started in 2011. The program exists to encourage private landowners to voluntarily open their lands to public hunting in exchange for on-site wildlife habitat technical and financial assistance from the Department of Natural Resources (Department). The program’s eligibility criteria, application processes, and assessment standards are spelled out in Chapter 22.

The Commission is proposing two changes to the program, the only ones to date since its development. These proposed changes are aimed at making improvements to the agreement and growing IHAP in a sustainable way. Hunters are excited to grow the program, and there is high landowner interest in enrolling. These changes will allow both to occur more easily.

First, the adoption by reference of the program’s agreement template shall be stricken. During the program’s initial roll-out, the program’s agreement template was adopted by reference in order to provide extra levels of transparency. Nearly a decade into this very popular program, this extra level of transparency is no longer necessary. Other rules in the chapter outline the agreement’s overall scope and general terms, and those rules shall remain. Additionally, the agreement’s template shall continue to be available on the Department’s website for any interested parties to read at their convenience.

Second, the Commission is proposing to strike language that requires the Department to directly hire the habitat contractor. This amendment will enable the Department to pay the enrolled landowner directly if the landowner is competent to do the habitat work, or allow the landowner to personally hire the contractor of choice and pay for that work with allotted IHAP funds.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

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

*Public Comment*

Any interested person may submit comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on August 18, 2020. Comments should be directed to:

## NATURAL RESOURCE COMMISSION[571](cont'd)

Brian Hickman  
Iowa Department of Natural Resources  
Wallace State Office Building  
502 East Ninth Street  
Des Moines, Iowa 50319  
Email: [brian.hickman@dnr.iowa.gov](mailto:brian.hickman@dnr.iowa.gov)

*Public Hearing*

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

August 18, 2020  
1 to 2 p.m.

Video/conference call

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

Any persons who intend to attend the 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:

Amend rule 571—22.14(456A,483A) as follows:

**571—22.14(456A,483A) Agreements.** The commission shall enter into “Iowa Management and Access Program Agreements,” ~~version 4-15-11 that is located~~ available on the department’s ~~Web site at [http://www.iowadnr.gov/wildlife/privatelands/mgt\\_access.html](http://www.iowadnr.gov/wildlife/privatelands/mgt_access.html)~~ website as well as through the department’s central office, ~~and incorporated by reference herein,~~ with approved landowners to carry out the purposes of this program.

**22.14(1)** No change.

**22.14(2)** Grant funds. Habitat development money is only available if an agreement has been signed by both parties. ~~No funds shall be paid directly to the landowner, but rather shall go to a habitat development contractor hired by the department.~~ This is not a cost-share program; the department is solely responsible for all habitat development cost.

**22.14(3) to 22.14(5)** No change.

**ARC 5116C****NURSING BOARD[655]****Notice of Intended Action****Proposing rule making related to administrative and regulatory authority  
and providing an opportunity for public comment**

The Board of Nursing hereby proposes to amend Chapter 1, “Administrative and Regulatory Authority,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 17A.3.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 135.11B.

*Purpose and Summary*

2019 Iowa Acts, House File 766, section 59, created new Iowa Code section 135.11B, which provides the Director of the Iowa Department of Public Health with the authority to hire and supervise the executive directors of the Boards of Medicine, Nursing, and Pharmacy, and the Dental Board. Previously, the Board of Nursing hired and supervised its own Executive Director. The Board will now advise and consult with the Director in the hiring and supervision of the Executive Director. This rule making amends rule 655—1.3(17A,147,152) to conform to the Board’s new advisory and consulting role in the hiring and supervising of its Executive Director.

*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 655—Chapter 15.

*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 18, 2020. Comments should be directed to:

Kathy Weinberg  
Iowa Board of Nursing  
400 S.W. Eighth Street, Suite B  
Des Moines, Iowa 50309  
Email: [kathy.weinberg@iowa.gov](mailto:kathy.weinberg@iowa.gov)

*Public Hearing*

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

## NURSING BOARD[655](cont'd)

August 18, 2020  
9 to 10 a.m.

Board Office, Suite B  
400 S.W. Eighth Street  
Des Moines, Iowa 50309

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

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

*Review by Administrative Rules Review Committee*

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

The following rule-making action is proposed:

Amend paragraph **1.3(2)“j”** as follows:

*j.* ~~Appoint~~ Retain a full-time executive director who, under the direction of the board, is responsible for the administration of policies and programs of the board and for the operation of the board office. Appointment or termination of appointment of the executive director shall require a majority vote of the entire board. Pursuant to Iowa Code section 135.11B, the board shall advise the director of the department of public health in evaluating potential candidates for the position of executive director, consult with the director in the hiring of the executive director, and review and advise the director on the performance of the executive director in the discharge of the executive director's duties.

**ARC 5117C**

**NURSING BOARD[655]**

**Notice of Intended Action**

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

The Board of Nursing hereby proposes to amend Chapter 2, “Nursing Education Programs,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 147.76 and 152.5.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapter 152.

*Purpose and Summary*

The Board's Advanced Registered Nurse Practitioner (ARNP) Advisory Committee reviewed Chapter 2 and made suggestions to align the rules with current nursing education, research, and practice trends. The Board proposes these amendments after considering the Committee's recommendations. This proposed rule making first amends the definition of “preceptor” to be consistent with how the term is used throughout the chapter. This proposed rule making also explains that educational programs may not require students to find their own preceptors, and programs must instead work with students to identify appropriate preceptors. This proposed rule making also separates the standards for ARNP

## NURSING BOARD[655](cont'd)

and undergraduate/non-ARNP preceptorships, and clarifies that ARNP preceptors must be licensed as ARNPs or physicians.

*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 655—Chapter 15.

*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 18, 2020. Comments should be directed to:

Kathy Weinberg  
Iowa Board of Nursing  
400 S.W. Eighth Street, Suite B  
Des Moines, Iowa 50309  
Email: [kathy.weinberg@iowa.gov](mailto:kathy.weinberg@iowa.gov)

*Public Hearing*

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

August 18, 2020  
10 to 11 a.m.

Board Office, Suite B  
400 S.W. Eighth Street  
Des Moines, Iowa 50309

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

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

*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 **655—2.1(152)**, definition of “Preceptor,” as follows:

“*Preceptor*” means a licensed individual who meets Iowa board of nursing qualifications as specified in this chapter, is on staff at the facility where the experience occurs, is selected by the educational facility nursing program in collaboration with the clinical facility, and is responsible for the on-site direction of the student over a period of time.

## NURSING BOARD[655](cont'd)

ITEM 2. Amend subrule 2.4(2) as follows:

**2.4(2)** The program shall provide to the board the nursing education program report and requested materials addressing all aspects of the program outlined in rules 655—2.8(152) to 655—2.17(152) 655—2.18(152) and documenting how the criteria for approval are met. Documentation may include current information submitted by the program to other approving and accrediting entities.

ITEM 3. Amend rule 655—2.15(152) as follows:

**655—2.15(152) Preceptorship Undergraduate and non-ARNP graduate program preceptorship.**

**2.15(1)** A preceptor shall be selected by the nursing program in collaboration with a clinical facility to provide supportive learning experiences consistent with program outcomes.

*a.* A nursing education program shall not require students to find their own preceptors. The nursing education program and student shall work together to find an appropriate preceptor.

*b.* The student shall have the preceptorship learning experience with a preceptor who has equivalent licensure as the student or practices in the same role for which the student is preparing.

**2.15(2)** The qualifications of a preceptor shall be appropriate to support the ~~philosophy/mission~~ philosophy, mission, and outcomes of the program.

*a.* The preceptor shall be employed by or maintain a current written agreement with the clinical facility in which a preceptorship experience occurs.

*b.* The preceptor shall be currently licensed as a registered nurse, licensed practical nurse, or advanced registered nurse practitioner according to the laws of the state in which the preceptor practices.

*c.* The preceptor shall function according to written policies for selection, evaluation and reappointment developed by the program. Written qualifications, developed by the program, shall address educational preparation, experience, and clinical competence.

*d.* The program shall be responsible for informing the preceptor of the responsibilities of the preceptor, faculty and students.

*e.* The program shall retain ultimate responsibility for student learning and evaluation.

**2.15(3)** The program shall inform the board ~~of~~ about the preceptorship learning ~~experiences~~ experience process.

*a.* Written preceptorship agreements shall be reviewed annually by the program.

*b.* The board may conduct a site visit to settings in which preceptorship experiences occur.

*c.* The rationale for the ratio of students to preceptors shall be documented by the program.

**2.15(4)** An individual who is not a registered nurse or a licensed practical nurse may serve as a preceptor when appropriate to the ~~philosophy/mission~~ philosophy, mission, and outcomes of the program.

ITEM 4. Renumber rules **655—2.16(152)** and **655—2.17(152)** as **655—2.17(152)** and **655—2.18(152)**.

ITEM 5. Adopt the following new rule 655—2.16(152):

**655—2.16(152) ARNP program preceptorship.**

**2.16(1)** A preceptor shall be selected by the nursing program in collaboration with a clinical facility to provide supportive learning experiences consistent with program outcomes.

*a.* A nursing education program shall not require students to find their own preceptors. The nursing education program and student shall work together to find an appropriate preceptor.

*b.* The student shall have the majority of preceptorship learning experiences with a preceptor who is an ARNP or physician with the same role and population focus for which the student is preparing.

**2.16(2)** The qualifications of a preceptor shall be appropriate to support the philosophy, mission, and outcomes of the program.

*a.* The preceptor shall be employed by or maintain a current written agreement with the clinical facility in which a preceptorship experience occurs.

*b.* The preceptor shall be currently licensed as an advanced registered nurse practitioner or physician according to the laws of the state in which the preceptor practices.

## NURSING BOARD[655](cont'd)

c. The preceptor shall function according to written policies for selection, evaluation and reappointment developed by the program. Written qualifications, developed by the program, shall address educational preparation, experience, and clinical competence.

d. The program shall be responsible for informing the preceptor of the responsibilities of the preceptor, faculty and students.

e. The program shall retain ultimate responsibility for student learning and evaluation.

**2.16(3)** The program shall inform the board about the preceptorship learning experience process.

a. Written preceptorship agreements shall be reviewed annually by the program.

b. The board may conduct a site visit to settings in which preceptorship experiences occur.

c. The rationale for the ratio of students to preceptors shall be documented by the program.

ITEM 6. Amend renumbered subrule 2.18(4) as follows:

**2.18(4)** If a program makes changes as part of a plan to improve the program's NCLEX® passing percentage, pursuant to rule ~~655—2.16(152)~~ 655—2.17(152), such changes must also be separately submitted to the board for approval pursuant to this rule.

**ARC 5113C****PHARMACY BOARD[657]****Notice of Intended Action****Proposing rule making related to administrative staff, service animals, equipment requirements, waivers, and a date extension and providing an opportunity for public comment**

The Board of Pharmacy hereby proposes to amend Chapter 1, "Purpose and Organization," Chapter 2, "Pharmacist Licenses," Chapter 8, "Universal Practice Standards," Chapter 13, "Telepharmacy Practice," Chapter 16, "Nuclear Pharmacy Practice," Chapter 26, "Petitions for Rule Making," Chapter 34, "Rules for Waivers and Variances," and Chapter 39, "Expanded Practice Standards," 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, 2019 Iowa Acts, House File 766 and Senate File 341, and 2020 Iowa Acts, House File 2627 and House File 2389.

*Purpose and Summary*

The proposed amendments bring the Board's rules in alignment with Iowa Code changes made during the 2019 and 2020 Legislative Sessions. The subjects of the Code changes include:

- Oversight of the Board's executive director (2019 Iowa Acts, House File 766),
- Service animals or service-animals-in-training (2019 Iowa Acts, Senate File 341),
- Extension of future repeal date for physician-signed immunization protocols (2020 Iowa Acts, House File 2627),
- Waivers and variances (2020 Iowa Acts, House File 2389), and
- Submission of the disposition of a petition for rule making to the Administrative Rules Review Committee (2020 Iowa Acts, House File 2389).

*Fiscal Impact*

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



## PHARMACY BOARD[657](cont'd)

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the 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 18, 2020. 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](mailto: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—1.2(17A,147,155A,272C) as follows:

**657—1.2(17A,147,155A,272C) Description and organization of board.** The board is comprised of five pharmacist members, one certified pharmacy technician member, and two representatives of the general public, all appointed by the governor. An administrative staff headed by a ~~board-appointed~~ public health director-appointed executive director assists board members.

The board's authority for regulating the practice of pharmacy and the legal distribution and dispensing of prescription drugs and devices and of precursor substances in the state of Iowa is found in Iowa Code chapters 124, 124B, 126, 147, 155A, 205, and 272C.

ITEM 2. Amend subrule 2.4(2) as follows:

**2.4(2) Timeliness.** To be eligible for a license by examination, the candidate shall pass all components in Iowa within a period of one year beginning with the date the candidate passed an initial component. A candidate may request waiver ~~or variance~~ from this deadline pursuant to the procedures and requirements of 657—Chapter 34.

## PHARMACY BOARD[657](cont'd)

ITEM 3. Amend rule 657—2.7(147) as follows:

**657—2.7(147) Reexamination applications and fees.** A candidate who fails to pass either the NAPLEX or the MPJE, Iowa Edition, once shall be allowed to schedule a time to retake the examination as provided in this rule. To ensure the integrity of the examinations, no waiver or variance of the specified waiting period between reexaminations will be granted.

**2.7(1) to 2.7(4)** No change.

ITEM 4. Amend subrule 8.5(5) as follows:

**8.5(5) Orderly and clean.** The pharmacy shall be arranged in an orderly fashion and kept clean. All required equipment shall be in good operating condition and maintained in a sanitary manner. Animals shall not be allowed within a licensed pharmacy unless that pharmacy is exclusively providing services for the treatment of animals or unless the animal is a service dog or assistive animal or service-animal-in-training as defined in Iowa Code ~~subsection 216C.11(1)~~ section 216C.1A.

ITEM 5. Amend subrule 13.16(8) as follows:

**13.16(8) Request for distance waiver.** The board shall consider a request for waiver of the distance requirement between the proposed telepharmacy site and the nearest currently licensed pharmacy that dispenses prescription drugs to outpatients if the petitioner can demonstrate to the board that the proposed telepharmacy site is located in an area where there is limited access to pharmacy services and that there exist compelling circumstances that justify waiving the distance requirement.

*a.* The request for waiver shall be prepared and shall include the elements of a request for waiver or variance identified in 657—Chapter 34.

*b. to d.* No change.

ITEM 6. Amend rule 657—16.6(155A) as follows:

**657—16.6(155A) Minimum equipment requirements.** Each nuclear pharmacy shall maintain the following equipment for use in the provision of radiopharmaceutical services:

1. to 7. No change.

A pharmacy may request waiver or variance from a provision of this rule pursuant to the procedures and requirements of 657—Chapter 34.

ITEM 7. Amend rule 657—26.4(17A) as follows:

**657—26.4(17A) Board consideration.**

**26.4(1) Initial activities.** Within 14 days after the filing of a petition, the board shall submit a copy of the petition and any accompanying brief to the administrative rules coordinator and to the administrative rules review committee (ARRC). Upon request by the petitioner ~~in the petition~~, the board shall schedule a brief and informal meeting between the petitioner and the board, a member of the board, or a member of the board staff ~~of the board~~ to discuss the petition. The board may request that the petitioner submit additional information or argument concerning the petition. The board may also solicit comments from any person on the substance of the petition. Any person may submit to the board comments on the substance of the petition.

**26.4(2) Decision issued.** Within 60 days after the filing of the petition, or within any longer period agreed to by the petitioner, the board shall, in writing, deny the petition, and notify the petitioner and the ARRC of its action and the specific grounds for the denial, or grant the petition and notify the petitioner and the ARRC that it has ~~instituted~~ initiated rule-making proceedings on the subject of the petition. ~~Petitioner~~ The petitioner and the ARRC shall be deemed notified of the denial or grant of the petition on the date when the board mails or delivers the required notification to the petitioner and the ARRC.

**26.4(3)** No change.

ITEM 8. Amend **657—Chapter 34**, title, as follows:

**RULES FOR WAIVERS AND VARIANCES**

## PHARMACY BOARD[657](cont'd)

ITEM 9. Amend rule 657—34.1(17A) as follows:

**657—34.1(17A) Definition.** For purposes of this chapter, a “waiver” ~~or “variance”~~ means action by the board which suspends, in whole or in part, the requirements or provisions of a rule as applied to an identified person or business on the basis of the particular circumstances of that person or business. For simplicity, ~~the term “waiver” shall include both a waiver and a variance and~~ the term “person” shall include both a person and a business.

ITEM 10. Amend rule 657—34.4(17A) as follows:

**657—34.4(17A) Criteria for waiver ~~or variance.~~** In response to a petition for waiver, the board may in its sole discretion issue an order waiving in whole or in part the requirements of a rule if the board finds, based on clear and convincing evidence, all of the following:

1. to 4. No change.

ITEM 11. Amend rule 657—34.12(17A) as follows:

**657—34.12(17A) ~~Summary reports~~ Submission of waiver information.** ~~The~~ Within 60 days of granting or denying a waiver, the board shall semiannually prepare a summary report identifying ~~make a submission on the Internet site established pursuant to Iowa Code section 17A.9A for the submission of waiver information. The submission shall identify~~ the rules for which a waiver has been granted or denied, the number of times a waiver was granted or denied for each rule, and a citation to the statutory provisions implemented by these rules. ~~The report submission shall include a general summary of the reasons justifying the board’s actions on waiver requests and, if, If practicable, the submission shall detail the extent to which the granting of a waiver has established a precedent for additional waivers and the extent to which the granting of a waiver has affected the general applicability of the rule itself. Copies of this report shall be available for public inspection and shall be provided semiannually to the administrative rules coordinator and the administrative rules review committee.~~

ITEM 12. Amend rule 657—39.10(155A) as follows:

**657—39.10(155A) Vaccine administration by pharmacists—physician-approved protocol.** Through June 30, ~~2020~~ 2021, an authorized pharmacist may administer vaccines pursuant to protocols established by the CDC in compliance with the requirements of this rule. An authorized pharmacist may only delegate the administration of a vaccine to an authorized pharmacist-intern under the direct supervision of the authorized pharmacist.

**39.10(1) to 39.10(7)** No change.

**ARC 5115C**

**PHARMACY BOARD[657]**

**Notice of Intended Action**

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

The Board of Pharmacy hereby proposes to amend Chapter 8, “Universal Practice Standards,” and Chapter 21, “Electronic Data and Automated Systems in 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 sections 147.76 and 155A.35.

## PHARMACY BOARD[657](cont'd)

*Purpose and Summary*

The proposed rule making clarifies that patient information which is needed for a pharmacist to conduct drug utilization review shall be obtained and that the collection of such information can be delegated to a pharmacy technician. The rule making also provides that an electronically transmitted prescription must include the telephone number where the prescriber can be contacted and updates a 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.

*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 18, 2020. 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](mailto: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—8.21(155A) as follows:

**657—8.21(155A) Prospective drug use review.**

**8.21(1)** For purposes of promoting therapeutic appropriateness and ensuring rational drug therapy, a pharmacist shall review the patient record, information obtained from the patient, and each prescription drug or medication order to identify:

*a. to h.* No change.

## PHARMACY BOARD[657](cont'd)

Upon recognizing any of the above, the pharmacist shall take appropriate steps to avoid or resolve the problem and shall, if necessary, include consultation with the prescriber. Information that shall be obtained for the purpose of drug utilization review includes, but is not limited to, a complete list of prescription and nonprescription medications being used by the patient, patient allergies, and patient disease states. The collection of patient information to be used for drug utilization review may be delegated to a pharmacy technician or pharmacist-intern. The review and assessment of patient records shall not be delegated to pharmacy technicians or pharmacy support persons but may be delegated to registered pharmacist-interns under the direct supervision of the pharmacist.

**8.21(2)** No change.

ITEM 2. Amend paragraph **21.6(1)“d”** as follows:

*d.* In addition to the information requirements for a prescription, an electronically transmitted prescription shall identify the transmitter’s telephone number for verbal confirmation, the telephone number where the prescriber can be contacted for timely consultation about patient care matters, the time and date of transmission, and the pharmacy intended to receive the transmission as well as any other information required by federal or state laws, rules, or regulations.

ITEM 3. Amend subrule 21.7(3) as follows:

**21.7(3)** *Schedule II controlled substances—long-term care facility patients.* A prescription for any Schedule II controlled substance for a resident of a long-term care facility, as “long-term care facility” is defined in rule ~~657—23.1(155A)~~ 657—23.2(155A), may be transmitted by the prescriber or the prescriber’s agent to a pharmacy via facsimile. The prescription shall identify that the patient is a resident of a long-term care facility.

**ARC 5114C**

**PHARMACY BOARD[657]**

**Notice of Intended Action**

**Proposing rule making related to Schedules I and II controlled substances  
and providing an opportunity for public comment**

The Board of Pharmacy hereby proposes to amend Chapter 10, “Controlled Substances,” and Chapter 11, “Drugs in Emergency Medical Service Programs,” Iowa Administrative Code.

*Legal Authority for Rule Making*

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

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 124.301.

*Purpose and Summary*

The proposed rule making clarifies the expectation that a registrant’s perpetual inventory must at all times accurately reflect the actual on-hand inventory of the substances and simplifies the rule relating to the purchase of Schedule I or II controlled substances. Federal regulations were recently amended to allow a single-page order form for the purchase of Schedules I and II substances, but the regulations continue to allow the use of the prior triplicate order form for a period of time in addition to the electronic ordering process.

*Fiscal Impact*

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

## PHARMACY BOARD[657](cont'd)

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the 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 18, 2020. 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](mailto: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. Rescind rule 657—10.17(124) and adopt the following **new** rule in lieu thereof:

**657—10.17(124) Ordering or distributing Schedule I or II controlled substances.** A registrant authorized to order or distribute Schedule I or II controlled substances shall do so only pursuant to and in compliance with DEA regulations via a DEA Form 222 or via the DEA Controlled Substances Ordering System (CSOS).

ITEM 2. Amend rule 657—10.18(124) as follows:

**657—10.18(124) Schedule II perpetual inventory.** Each registrant located in Iowa that maintains Schedule II controlled substances shall maintain a perpetual inventory system for all Schedule II controlled substances pursuant to this rule. All records relating to the perpetual inventory shall be maintained at the registered location and shall be available for inspection and copying by the board or its representative for a period of two years from the date of the record. The perpetual inventory shall accurately reflect the on-hand inventory of Schedule II substances, and the registrant is responsible for ensuring that the perpetual inventory record is accurate and matches the actual on-hand inventory at all times.

**10.18(1) to 10.18(4)** No change.

PHARMACY BOARD[657](cont'd)

ITEM 3. Rescind rule 657—11.27(124,147A,155A) and adopt the following new rule in lieu thereof:

**657—11.27(124,147A,155A) Ordering Schedule II controlled substances—medical director-based service programs.** A registrant authorized to order or distribute Schedule II controlled substances shall do so only pursuant to and in compliance with DEA regulations via a DEA Form 222 or via the DEA Controlled Substances Ordering System (CSOS).

**ARC 5105C**

## **PUBLIC SAFETY DEPARTMENT[661]**

### **Notice of Intended Action**

#### **Proposing rule making related to consumer and commercial fireworks and providing an opportunity for public comment**

The State Fire Marshal hereby proposes to amend Chapter 265, “Consumer Fireworks Sales Licensing and Safety Standards,” Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 100.19.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 100.19.

#### *Purpose and Summary*

Since the inception of Iowa’s consumer firework license, the State Fire Marshal has attempted to strike a balance between the needs of public safety and the industry. As such, the current rules in regard to inspections have never been strictly followed because of strict time constraints to complete inspections during the short fireworks season. The proposed amendments account for what has been learned about this industry and best practices for striking an appropriate balance. Also included in this proposed rule making are some updates to the website information and similar references.

#### *Fiscal Impact*

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

#### *Jobs Impact*

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

#### *Waivers*

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

#### *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 10, 2020. Comments should be directed to:

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

Dan Wood  
Department of Public Safety  
Oran Pape State Office Building  
215 East 7th Street  
Des Moines, Iowa 50319  
Phone: 515.725.6150

*Public Hearing*

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

*Review by Administrative Rules Review Committee*

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

The following rule-making actions are proposed:

ITEM 1. Adopt the following **new** definitions of “Commercial fireworks,” “Consumer fireworks,” and “Serious violation” in rule **661—265.20(100)**:

“*Commercial fireworks*” means large firework devices that are explosive materials intended for use in firework displays and designed to produce visible or audible effects by combustion, deflagration, or detonation, as set forth in 27 CFR 555, 49 CFR 172, and APA Standard 87-1, Standard for the Construction and Approval for Transportation of Fireworks, Novelties, and Theatrical Pyrotechnics.

“*Consumer fireworks*” means small firework devices containing restricted amounts of pyrotechnic composition, designed primarily to produce visible or audible effects by combustion, that comply with the construction, chemical composition, and labeling regulations of the U.S. Consumer Product Safety Commission (CPSC), as set forth in CPSC 16 CFR 1500 and 1507, 49 CFR 172, and APA Standard 87-1, Standard for the Construction and Approval for Transportation of Fireworks, Novelties, and Theatrical Pyrotechnics.

“*Serious violation*” means any of the following activities occurring at a licensed retail location selling consumer fireworks:

1. Commission of a criminal offense, punishable by one year or more incarceration.
2. Selling consumer fireworks to a minor.
3. Selling commercial fireworks.

ITEM 2. Amend rule 661—265.23(100) as follows:

**661—265.23(100) Consumer fireworks retail sales license.**

**265.23(1)** No change.

**265.23(2)** *Application form and instructions.* The application for a license for retail sales of first-class consumer fireworks or second-class consumer fireworks, or both first-class consumer fireworks and second-class consumer fireworks, shall be made to the state fire marshal. The application form and instructions may be found on the state fire marshal website at [www.dps.state.ia.us/fm/building/licensing/consumerfireworksindex.shtml](http://www.dps.state.ia.us/fm/building/licensing/consumerfireworksindex.shtml) [dps.iowa.gov/divisions/state-fire-marshal/consumer-fireworks-licensing](http://dps.iowa.gov/divisions/state-fire-marshal/consumer-fireworks-licensing).

**265.23(3)** No change.



## PUBLIC SAFETY DEPARTMENT[661](cont'd)

ITEM 3. Amend rule 661—265.26(100) as follows:

**661—265.26(100) Plan review and inspection—guidelines.**

**265.26(1) Inspections.**

~~a. Any retailer or community group offering for sale at retail any consumer fireworks, as described in APA 87-1, shall do so in accordance with NFPA 1124. Every location and any building or structure where the retail sales of consumer fireworks are conducted or where consumer fireworks are stored is subject to an inspection at any time while engaged in the retail sale of consumer fireworks. In the discretion of the state fire marshal, prelicense inspections may not be required in the following circumstances:~~

~~(1) For permanent buildings or temporary structures in which only exempt amounts of first-class or second-class consumer fireworks are offered for sale, pursuant to section 7.3.1, NFPA 1124. The licensee shall make current product inventory information available to the state fire marshal upon request.~~

~~(2) For permanent buildings that were licensed in the previous year and for which there have been no changes to the site, building or floor plan. If any changes have been made, then a new or updated plan shall be submitted.~~

~~b. State licensing inspections shall only be conducted by persons approved by the state fire marshal. The inspection form shall be approved by the state fire marshal and will be available only to approved inspectors.~~

~~c. Each location, including the building(s) or structure(s) where the retail sales of consumer fireworks will be conducted or are conducted or where consumer fireworks are stored, must pass the state licensing inspection when conducted. Each location, including the building(s) or structure(s) must pass all elements of the inspection as conducted.~~

~~b. Prior to the sale of consumer fireworks, each retail location shall satisfy one of the following requirements:~~

~~(1) A site inspection of the retail location by the state fire marshal or the state fire marshal's designee.~~

~~(2) Attestation at the time of the application by the person submitting the application that the retail location will comply with NFPA 1124 and these rules, including rule 661—265.25(100).~~

~~c. If a retail location license is revoked, the location shall satisfy the requirements of subparagraph 265.26(1)“b”(1) prior to engaging in the sale of consumer fireworks the following year. The retail location shall not satisfy subparagraph 265.26(1)“b”(2) to sale consumer fireworks.~~

**265.26(2) Reserved.**

ITEM 4. Amend rule 661—265.27(100) as follows:

**661—265.27(100) Issuance and display of license.** The submitted application, any additional documents and information, and the completed inspection form shall be reviewed by the state fire marshal's office.

**265.27(1)** If all of the requirements are met and the correct license fee is paid, the state fire marshal shall issue the license. The license will be sent by email or can be downloaded from the state fire marshal's licensing website at [www.dps.state.ia.us/fm/building/licensing/consumerfireworksindex.shtml](http://www.dps.state.ia.us/fm/building/licensing/consumerfireworksindex.shtml). The license shall be effective for the applicable date(s) for the sales of consumer fireworks.

**265.27(2)** The license must be clearly displayed at the location where the retail sales of consumer fireworks for which the license was issued are conducted.

ITEM 5. Amend rule 661—265.31(100) as follows:

**661—265.31(100) Annual registration.** Each wholesaler shall register with the state fire marshal annually.

**265.31(1) Registration process.** Each wholesaler shall complete the annual registration form and submit the form to the state fire marshal's office. The registration form

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

and instructions may be found on the state fire marshal's licensing website at [www.dps.state.ia.us/fm/building/licensing/consumerfireworksindex.shtml](http://www.dps.state.ia.us/fm/building/licensing/consumerfireworksindex.shtml).

**265.31(2) Registration fee.** Each wholesaler shall pay an annual registration fee of \$1,000 to the state fire marshal.

ITEM 6. Rescind rule 661—265.40(100) and adopt the following new rule in lieu thereof:

**661—265.40(100) Revocation of license.** If the state fire marshal or state fire marshal's designee determines during a physical site inspection that a serious violation has occurred, the license for that retail location shall be immediately revoked. Violations that are not serious violations shall be given the opportunity to remedy the violation.

ITEM 7. Rescind and reserve rules **661—265.41(100)** to **661—265.43(100)**.

ITEM 8. Amend subrule 265.51(4) as follows:

**265.51(4) Application.** The application for grant funds shall be made to the state fire marshal. The application form may be found at [www.dps.state.ia.us/fm/building/licensing/consumerfireworksindex.shtml](http://www.dps.state.ia.us/fm/building/licensing/consumerfireworksindex.shtml) [dps.iowa.gov/divisions/state-fire-marshal/consumer-fireworks-licensing](http://dps.iowa.gov/divisions/state-fire-marshal/consumer-fireworks-licensing). Applications must be received on or before June 30 of each year. The application shall include all of the following:

a. to c. No change.

**ARC 5103C**

## REVENUE DEPARTMENT[701]

### Amended Notice of Intended Action

#### Proposing rule making related to tax return preparers and providing an opportunity for public comment

The Revenue Department hereby proposes to amend Chapter 7, "Practice and Procedure Before the Department of Revenue," Iowa Administrative Code.

#### *Legal Authority for Rule Making*

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

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 421.62 to 421.64.

#### *Purpose and Summary*

The Department proposes this rule making to implement new provisions that were added to Iowa Code chapter 421 by 2019 Iowa Acts, House File 590, and by 2020 Iowa Acts, House File 2641. Iowa Code section 421.62 defines "tax return preparer" and sets forth a penalty for tax return preparers who fail to include their preparer tax identification number on certain returns or claims for refund they prepare under Iowa Code chapter 422. Iowa Code section 421.63 grants the Department the authority to enjoin certain tax return preparers. Lastly, Iowa Code section 421.64 imposes continuing education requirements on tax return preparers.

#### *Reason for Amendment of Notice of Intended Action*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 26, 2020, as **ARC 4942C**. No public comments were received.

On June 29, 2020, Governor Reynolds signed 2020 Iowa Acts, House File 2641, into law, which provided technical changes to Iowa Code sections 421.62 and 421.64 and added a clarifying definition to Iowa Code section 421.62. In response to this legislation, the Department has changed a term from

## REVENUE DEPARTMENT[701](cont'd)

“tax return or claim for refund” to “income tax return or claim for refund,” modified the definition of “tax return preparer,” and made technical changes throughout the rule to reflect these alterations. Apart from these nonsubstantive technical corrections, no changes from the Notice of Intended Action have been made.

*Fiscal Impact*

This rule making has no fiscal impact beyond that of the legislation it is intended to implement. A fiscal estimate prepared by the Department for similar legislation is available upon request.

*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 18, 2020. Comments should be directed to:

Ellen Reynolds  
Department of Revenue  
Hoover State Office Building  
P.O. Box 10457  
Des Moines, Iowa 50306  
Phone: 515.725.4057  
Email: [ellen.reynolds@iowa.gov](mailto:ellen.reynolds@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** rule 701—7.36(421):

**701—7.36(421) Tax return preparers.**

**7.36(1) Definitions.** For the purposes of this rule and for Iowa Code sections 421.62, 421.63, and 421.64, the following definitions apply:

## REVENUE DEPARTMENT[701](cont'd)

*“An enrolled agent enrolled to practice before the federal Internal Revenue Service (IRS) pursuant to 31 CFR §10.4”* means an individual who has an active status as an enrolled agent under 31 CFR §10.4(a) or (d) and is not currently under suspension or disbarment from practice before the IRS. An enrolled agent does not include an enrolled retirement plan agent under 31 CFR §10.4(b) or a registered tax return preparer under 31 CFR §10.4(c).

*“An individual admitted to practice law in this state or another state”* means an individual who has an active license to practice law in this state or another state, is considered in good standing with the licensing authority of this or another state, and is currently authorized to engage in the practice of law.

*“An individual licensed as a certified public accountant or a licensed public accountant under Iowa Code chapter 542 or a similar law of another state”* means an individual who meets one of the following requirements:

1. The individual has an active certified public accountant license under Iowa Code chapter 542 or a similar law of another state, is in good standing with the Iowa accountancy examining board or similar authority of another state, and is currently authorized to engage in the practice of public accounting as a certified public accountant.

2. The individual has an active public accountant license under Iowa Code chapter 542 or a similar law of another state, is in good standing with the Iowa accountancy examining board or similar authority of another state, and is currently authorized to engage in the practice of public accounting.

*“Hour of continuing education”* means a minimum of 50 minutes spent by a tax return preparer in actual attendance at or completion of an IRS-approved provider of continuing education course.

*“Income tax return or claim for refund”* means any return or claim for refund under Iowa Code chapter 422, excluding withholding returns under Iowa Code section 422.16.

*“New tax preparer”* means an individual who qualifies as a “tax return preparer” under Iowa Code section 421.62 for the current tax year but would not have qualified as such during any prior calendar year. See paragraph 7.36(8) “a” for examples regarding who qualifies as a new tax preparer.

*“Tax return preparer”* means any individual who, for a fee or other consideration, prepares ten or more income tax returns or claims for refund during a calendar year, or who assumes final responsibility for completed work on such income tax returns or claims for refund on which preliminary work has been done by another individual.

“Tax return preparer” does not include any of the following:

1. An individual licensed as a certified public accountant or a licensed public accountant under Iowa Code chapter 542 or a similar law of another state.

2. An individual admitted to practice law in this state or another state.

3. An enrolled agent enrolled to practice before the federal IRS pursuant to 31 CFR §10.4.

4. A fiduciary of an estate, trust, or individual, while functioning within the fiduciary’s legal duty and authority with respect to that individual or that estate or trust or its testator, trustor, grantor, or beneficiaries.

5. An individual who prepares the tax returns of the individual’s employer, while functioning within the individual’s scope of employment with the employer.

6. An individual employed by a local, state, or federal government agency, while functioning within the individual’s scope of employment with the government agency.

7. An employee of a tax return preparer, if the employee provides only clerical or other comparable services and does not sign tax returns.

See paragraph 7.36(8) “a” for examples regarding who qualifies as a tax return preparer.

**7.36(2) Penalty for tax return preparer’s failure to include preparer tax identification number (PTIN) on income tax returns or claims for refund.** On or after January 1, 2020, a tax return preparer who fails to include the tax return preparer’s PTIN on any income tax return or claim for refund prepared by the tax return preparer and filed with the department shall pay to the department a penalty of \$50 for each violation, unless the tax return preparer shows that the failure was reasonable under the circumstances and not willful or reckless conduct. The maximum aggregate penalty imposed upon a tax return preparer pursuant to Iowa Code section 421.62 and this rule shall not exceed \$25,000 during any calendar year. See paragraph 7.36(8) “c” for examples pertaining to the tax return preparer PTIN requirement.

## REVENUE DEPARTMENT[701](cont'd)

**7.36(3) Tax return preparer continuing education requirement.** Beginning January 1, 2020, and every year thereafter, a tax return preparer shall complete a minimum of 15 hours of continuing education courses each year. At least two hours of continuing education shall be on professional ethics, and the remaining hours shall pertain to federal or state income tax. Each course shall be taken from an IRS-approved provider of continuing education. If a course offered by an IRS-approved provider is primarily on state-specific income tax content, the course will qualify for the continuing education requirements under Iowa Code section 421.64 and this rule, even if such course does not count toward federal continuing professional education. Tax return preparers who complete more than the required 15 hours of continuing education in one calendar year may not count the excess hours toward a subsequent year's requirement. See paragraph 7.36(8) "b" for examples pertaining to the tax return preparer continuing education requirement.

**7.36(4) Preparation of income tax returns or claims for refund.** An individual prepares an income tax return or claim for refund when the individual signs (or should sign) a return, either because the individual completes the return or because the individual assumes final responsibility for preliminary work completed by other individuals.

**7.36(5) Approved providers and courses.**

*a. Approved providers of continuing education.* Any IRS-approved provider of continuing education is acceptable. It is not mandatory that a continuing education course be taken from an Iowa provider.

*b. Approved continuing education course subject matters.* All continuing education courses shall be on the topics of federal or state income tax or professional ethics.

*c. Approved continuing education format.* Continuing education courses that satisfy the requirements of Iowa Code section 421.64 and this rule may be taken for credit in person, online, or by self-study, as long as they are administered by an IRS-approved provider of continuing education.

**7.36(6) Reporting hours of continuing education and retaining records.**

*a. Reporting hours of continuing education to the department.* Tax return preparers shall report their continuing education hours to the department by February 15 of the calendar year following the year in which hours were completed to be eligible to prepare income tax returns or claims for refund. Hours must be reported using IA Form 78-012. If a tax return preparer fails to complete the required minimum hours of continuing education by the date prescribed in this subrule, the individual must show that failure to do so was reasonable under the circumstances and not willful or reckless conduct. IRS-approved providers are not required to report continuing education courses to the department.

*b. Retaining records of continuing education.* Tax return preparers are required to retain records of continuing education completion for a minimum of five years. This record retention shall include, but is not limited to, certificates of completion if offered by the IRS-approved provider of continuing education upon completion of a course.

**7.36(7) Reinstatement of a tax return preparer.** When a tax return preparer fails to complete the minimum 15 hours of continuing education courses as required by Iowa Code section 421.64 and this rule but demonstrates that the failure was reasonable under the circumstances and not willful or reckless conduct, the department may require the tax return preparer to make up any uncompleted hours and submit a completed IA Form 78-012 to the department by a date set by the department before the tax return preparer may engage in activity as a tax return preparer.

**7.36(8) Examples.**

*a. Tax return preparer examples.*

EXAMPLE 1: During the 2020 calendar year and every prior year, an individual, N, prepares nine or fewer income tax returns or claims for refund described in this rule for a fee or other consideration. During the 2021 calendar year, N, for a fee or other consideration, prepares ten income tax returns or claims for refund described in this rule. N meets the definition of a tax return preparer for the 2021 calendar year. Therefore, N will be subject to the penalty for failure to include N's PTIN on every income tax return or claim for refund described in this rule that N prepares during the 2021 calendar year. However, N also qualifies as a "new tax preparer" for the 2021 calendar year because this is the first year N satisfies the definition of a "tax return preparer." Therefore, N does not need to complete 15

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hours of continuing education courses during 2020 to prepare returns in 2021, but N will need to complete the minimum 15 hours of continuing education courses during the 2021 calendar year to be eligible to prepare returns during the 2022 calendar year if N will meet the definition of “tax return preparer” in 2022.

EXAMPLE 2: An individual, B, prepares ten income tax returns or claims for refund described in this rule during the 2019 calendar year for a fee or other consideration. Therefore, B is a tax return preparer. However, B is not required to complete any hours of continuing education courses prior to preparing returns in 2020, nor will B incur a penalty for failing to include B’s PTIN on any of those returns prepared in calendar year 2019 because the requirements described in this rule do not take effect until January 1, 2020. Assume B continues to prepare income tax returns or claims for refund described in this rule for a fee or other consideration during the 2020 calendar year, but B only prepares a total of nine such tax returns throughout the entire 2020 calendar year. B does not complete any hours of continuing education courses during the 2020 calendar year. B will not be eligible to prepare ten or more income tax returns or refund claims described in this rule for a fee or other consideration during the 2021 calendar year because even though B did not prepare ten or more income tax returns or claims for refund in 2020, B would have been classified as a tax return preparer in 2019. Thus, B is not considered a new tax preparer for purposes of the 2021 calendar year.

*b.* Continuing education requirement examples.

EXAMPLE 3: During the 2020 calendar year, an individual, P, prepares ten income tax returns or claims for refund described in this rule for a fee or other consideration. Therefore, P is a tax return preparer. During the 2020 calendar year, P also completes 30 hours of continuing education courses from programs offered by an IRS-approved provider of continuing education, 4 hours of which are on professional ethics and the remaining hours on income tax. P is eligible to prepare returns during the 2021 calendar year. However, P must complete 15 additional hours of continuing education courses offered by an IRS-approved provider, including 2 hours on professional ethics and the remaining hours on income tax, during the 2021 calendar year to be eligible to prepare returns during the 2022 calendar year if P will meet the definition of “tax return preparer” in 2022. P’s excess hours completed in 2020 may not be applied toward the 15 hours of continuing education courses that P must complete in 2021 to be eligible to prepare returns in 2022.

EXAMPLE 4: During the 2020 calendar year, a tax return preparer, P, completes 12 hours of continuing education courses from programs offered by an IRS-approved provider of continuing education. Two of the hours are on professional ethics, and the rest relate to income tax. P is not eligible to prepare income tax returns or claims for refund during the 2021 calendar year, regardless of the year of the returns P is preparing, because P has not completed a total of 15 continuing education hours during the 2020 calendar year. During the 2021 calendar year, P completes 15 hours of continuing education courses from programs offered by an IRS-approved provider. Two of P’s hours are from professional ethics courses, and the remaining 13 hours are from income tax courses. P is eligible to prepare returns during the 2022 calendar year, regardless of the years of the returns P prepares. However, P is still ineligible to prepare returns for the remaining duration of the 2021 calendar year, regardless of the years of the returns P wishes to prepare.

*c.* PTIN requirement examples.

EXAMPLE 5: An individual, X, works at a firm in the business of preparing income tax returns for a fee or other consideration. X completes a substantial amount of preliminary work on ten returns described in this rule during the scope of X’s employment (that are not the returns of X’s employer) during the 2020 calendar year, but X does not assume final responsibility for the work or sign the returns. Instead, X’s supervisor, Y, reviews the work completed by X and signs the returns. Y is a tax return preparer because Y assumed final responsibility for the returns. Therefore, Y’s PTIN is required on all of the returns. X’s PTIN is not required on any of the returns, nor will X incur any penalties for omitting X’s PTIN on the returns.

EXAMPLE 6: An individual, X, has a partnership with another individual, Y, in which X and Y prepare income tax returns for a fee or other consideration. X completes ten returns described in this rule during the 2020 calendar year. However, before X signs or files the returns, X asks Y to review the returns. Y

## REVENUE DEPARTMENT[701](cont'd)

reviews the returns and suggests substantial changes, but Y then gives the returns back to X. X makes the necessary changes, then signs and files the returns. X is a tax return preparer. X's PTIN is required on all of the returns because X assumed final responsibility for the returns. Y's PTIN is not required on any of the returns. If X fails to include X's PTIN on any of the returns, X will incur a \$50 civil penalty for each violation unless X shows that X's failure was reasonable under the circumstances and not willful or reckless conduct.

EXAMPLE 7: An individual, X, completes five income tax returns and five claims for refund described in this rule for a fee or other consideration during the 2020 calendar year. X does not sign the returns, even though no other paid tax return preparer reviewed X's work and took final responsibility for the return. X's PTIN is required on all of the returns because X is a paid tax return preparer for those returns, even though X failed to sign the returns as required. X is subject to a fine of \$50 per return that did not contain the required PTIN because X is a tax return preparer.

This rule is intended to implement Iowa Code sections 421.62, 421.63, and 421.64.

**ARC 5104C**

**REVENUE DEPARTMENT[701]**

**Notice of Intended Action**

**Proposing rule making related to homestead tax credit and military service tax exemption and providing an opportunity for public comment**

The Revenue Department hereby proposes to amend Chapter 80, "Property Tax Credits and Exemptions," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 421.14, 425.8, and 426A.7.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 22.7, 35.1, and 35.2 and chapters 425 and 426A.

*Purpose and Summary*

This proposed rule making is intended to clean up various provisions in existing rules related to the homestead tax credit and the military service tax exemption. In particular, this rule making defines "under honorable conditions" for purposes of the disabled veteran tax credit, describes the application requirements for the disabled veteran tax credit, and describes the eligibility of a person who has received multiple discharges from service for the disabled veteran tax credit. This rule making also clarifies the language of existing subrules regarding the applicability of the homestead tax credit and the military service tax exemption to a shareholder of a family farm corporation, the applicability of the homestead tax credit to a person owning a homestead dwelling located upon land owned by another person or entity, and the Iowa residency requirement for a person claiming a military service tax exemption. Lastly, this rule making removes unnecessary citations.

*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.

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*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 18, 2020. Comments should be directed to:

Ellen Reynolds  
Department of Revenue  
Hoover State Office Building  
P.O. Box 10457  
Des Moines, Iowa 50306  
Phone: 515.725.4057  
Email: [ellen.reynolds@iowa.gov](mailto:ellen.reynolds@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 701—80.1(425) as follows:

**701—80.1(425) Homestead tax credit.**

**80.1(1) Application for credit.**

*a.* No homestead tax credit shall be allowed unless the first application for homestead tax credit is signed by the owner of the property or the owner’s qualified designee and filed with the city or county assessor on or before July 1 of the current assessment year. ~~(1946 O.A.G. 37)~~ Once filed, the claim for credit is applicable to subsequent years and no further filing shall be required provided the homestead is owned and occupied by the claimant or the claimant’s spouse on July 1 of each year and, in addition, the claimant or the claimant’s spouse occupies the homestead for at least six months during each calendar year in which the fiscal year for which the credit is claimed begins. It is not a requirement that the six-month period of time be consecutive. If the credit is disallowed and the claimant failed to give written notice to the assessor that the claimant ceased to use the property as a homestead, a civil penalty equal to 5 percent of the amount of the disallowed credit shall be assessed against the claimant in addition to the amount of credit allowed. The assessor, county auditor, and county board of supervisors shall act on the claim in accordance with Iowa Code section 425.3. A claim filed after July 1 of any calendar year applies to the following assessment year.

*b. to f.* No change.



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g. For purposes of the homestead tax credit statute, the occupancy of the homestead may constitute actual occupancy or constructive occupancy. However, more than one homestead cannot be simultaneously occupied by the claimant and multiple simultaneous homestead tax credits are not allowable. (~~Op. St. Bd. Tax Rev. No. 212, February 29, 1980.~~) Generally, a homestead is occupied by the claimant if the premises constitute the claimant's usual place of abode. Once the claimant's occupancy of the homestead is established, such occupancy is not lost merely because the claimant, for some valid reason, is temporarily absent from the homestead premises with an intention of returning thereto (1952 O.A.G. 78).

**80.1(2) Eligibility for credit.**

a. If homestead property is owned jointly by persons who are not related or formerly related by blood, marriage or adoption, no homestead tax credit shall be allowed unless all the owners actually occupy the homestead property on July 1 of each year. (~~1944 O.A.G. 26; Letter O.A.G. October 18, 1941~~)

b. No homestead tax credit shall be allowed if the homestead property is owned or listed and assessed to a corporation, ~~other than a family farm corporation~~, partnership, company or any other business or nonbusiness organization. (1938 O.A.G. 441; *Verne Deskin v. Briggs*, State Board of Tax Review, No. 24, February 1, 1972) However, a family farm corporation, as defined in Iowa Code section 9H.1, where a shareholder of the family farm corporation occupies a homestead, as defined in Iowa Code section 425.11(1), may receive the homestead tax credit.

c. A person acquiring homestead property under a contract of purchase remains eligible for a homestead tax credit even though such person has assigned ~~his or her~~ equity in the homestead property as security for a loan. (1960 O.A.G. 263)

d. A person occupying homestead property pursuant to Iowa Code chapter 499A or 499B is eligible for a homestead tax credit. (1978 O.A.G. 78-2-5; 1979 O.A.G. 79-12-2)

e. A person who has a life estate interest in homestead property shall be eligible for a homestead tax credit, provided the remainderman is related or formerly related to the life estate holder by blood, marriage or adoption or the reversionary interest is held by a nonprofit corporation organized under Iowa Code chapter 504A. (1938 O.A.G. 193) 504.

f. A homestead tax credit may not be allowed upon a mobile home which is not assessed as real estate. (1962 O.A.G. 450)

g. A person occupying homestead property under a trust agreement is considered the owner of the property for purposes of the homestead tax credit. (1962 O.A.G. 434)

h. A remainder is not eligible to receive a homestead tax credit until expiration of the life estate to which such person has the remainder interest. (1938 O.A.G. 305)

i. In order for a person occupying homestead property under a contract of purchase to be eligible for a homestead tax credit, the contract of purchase must be recorded in the office of the county recorder where the property is located. A recorded memorandum or summary of the actual contract of purchase is not sufficient evidence of ownership to qualify a person for a homestead tax credit.

j. An owner of homestead property who is in the military service or confined in a nursing home, extended-care facility or hospital shall be considered as occupying the property during the period of service or confinement. The fact that the owner rents the property during the period of military service is immaterial to the granting of the homestead tax credit. (1942 O.A.G. 45) However, no homestead tax credit shall be allowed if the owner received a profit for the use of the property from another person while such owner is confined in a nursing home, extended-care facility or hospital.

k. A person owning a homestead dwelling located upon land owned by another person or entity is not eligible for a homestead tax credit. (1942 O.A.G. 160, O.A.G. 82-4-9) This rule is not applicable to a person owning a homestead dwelling pursuant to Iowa Code chapter 499B or a person owning a homestead dwelling on land owned by a community land trust pursuant to 42 U.S.C. Section 12773-, provided that such a person is liable for and pays property tax on the homestead as required under Iowa Code section 425.11(1) "e."

## REVENUE DEPARTMENT[701](cont'd)

*l.* An heir occupying homestead property that is part of an estate in the process of administration is considered an owner of the property and is eligible for the homestead credit. (1938 O.A.G. 272)

**80.1(3) Disabled ~~veteran's homestead~~ veteran tax credit.**

*a.* No change.

*b. Under honorable conditions.* A veteran, as defined in Iowa Code section 35.1, may qualify for the disabled veteran tax credit. To qualify as a veteran, an individual must have been discharged under honorable conditions from the armed forces of the United States, the reserve forces of the United States, the Iowa national guard, or the merchant marines. For purposes of benefits granted under Iowa Code section 425.15 and this rule, "under honorable conditions" means that the character of an enlisted member's discharge from the armed forces of the United States was "honorable" or "general (under honorable conditions)." "Under honorable conditions" does not include any other character of discharge, including, but not limited to:

(1) Under other than honorable conditions;

(2) Dishonorable;

(3) Bad conduct;

(4) Uncharacterized; or

(5) A similar expression indicating that the discharge or release was not under honorable circumstances.

*b-c. Application for credit.* ~~Except for the 2014 assessment year, an~~ A valid application for the disabled veteran tax credit is subject to all of the following requirements:

(1) An application for the disabled veteran tax credit must be filed with the local assessor on or before July 1 of the assessment year. Any supporting documentation required by the assessor as evidence of a veteran's service-connected disability status or rating must be current within the previous 12 months of the date on which the application is filed. ~~The filing deadline for applications for the 2014 assessment year shall be July 1, 2015. The credit applicable to assessment year 2014 shall be allowed only on a homestead which the owner occupied on July 1, 2014, and for at least six months during the 2014 assessment year.~~

(2) For persons applying for the disabled veteran tax credit under Iowa Code section 425.15(1) "a," "b," and "c," a DD-214 (Certificate of Release or Discharge from Active Duty), NGB-22 (Report of Separation and Record of Service), or equivalent document indicating the veteran's type of separation and character of service, is required with an application for the credit to verify that the applicant meets the requirements of Iowa Code sections 425.15 and 35.1.

(3) For persons applying for the disabled veteran tax credit under Iowa Code section 425.15(1) "b" and "c," a U.S. Department of Veterans Affairs Benefit Summary Letter (also known as a Veteran Affairs award letter) stating the veteran's qualifying service-connected disability rating(s) is required with an application for the disabled veteran tax credit as certification of the veteran's service-connected disability by the U.S. Department of Veterans Affairs. Where a veteran seeks eligibility as a result of a permanent and total disability rating based on individual unemployability, the Benefit Summary Letter must also indicate that the veteran is entitled to individual unemployability that is compensated at the 100 percent disability rate.

*d. Multiple discharges.* A person who has received a nonqualifying character of discharge may still qualify for the disabled veteran tax credit if it is established through the required documents under paragraph 80.1(3) "c" that the person has a service-connected disability that is related to the person's service in the armed forces of the United States for which the person was discharged under honorable conditions, and the other requirements of Iowa Code section 425.15 and this rule are also met. In such a case, in addition to a DD-214, the applicant must include a DD-256 (Certificate of Honorable Discharge) or a DD-257 (General Discharge Certificate) from the relevant time of service with the application for the disabled veteran tax credit. The applicant's Benefit Summary Letter must also indicate the applicant's periods of service and each character of discharge.

*e-e. Amount of credit.* The amount of the credit is equal to the entire amount of tax payable on the homestead.

## REVENUE DEPARTMENT[701](cont'd)

~~d. f.~~ *Continuance of credit.* The credit shall continue to the estate or surviving spouse and child who are the beneficiaries of an owner described in subparagraph 80.1(3) “a”(1), (2), or (3) if the surviving spouse remains unmarried. If an owner or beneficiary of an owner ceases to qualify for the credit, the owner or beneficiary must notify the assessor of the termination of eligibility.

**80.1(4) Application of credit.**

a. Except as provided in paragraph 80.1(1) “a,” if the homestead property is conveyed to another person prior to July 1 of any year, the new owner must file a claim for credit on or before July 1 to obtain the credit for that year. If the property is conveyed on or after July 1, the credit shall remain with the property for that year provided the previous owner was entitled to the credit. However, when the property is transferred as part of a distribution made pursuant to Iowa Code chapter 598 (Dissolution of Marriage) the transferee spouse retaining ownership and occupancy of the homestead is not required to refile for the credit.

b. A homestead tax credit may be allowed even though the property taxes levied against the homestead property have been suspended by the board of supervisors. ~~(1938 O.A.G. 288)~~

c. A homestead tax credit shall not be allowed if the property taxes levied against the homestead property have been canceled or remitted by the board of supervisors. ~~(1956 O.A.G. 78)~~

d. Only one homestead tax credit can be allowed per legally described tract of land. For purposes of this rule, a legally described tract of land shall mean all land contained in a single legal description. ~~(1962 O.A.G. 435)~~

e. If the owner of homestead property is also eligible for a military service tax exemption and claims the exemption on the homestead property, the military service tax exemption shall be applied prior to the homestead tax credit when computing net property tax. ~~(Ryan v. State Tax Commission, 235 Iowa 222, 16 N.W.2d 215)~~

f. to h. No change.

This rule is intended to implement Iowa Code chapter 425 as amended by 2006 Iowa Acts, House File 2794.

ITEM 2. Amend rule 701—80.2(22,35,426A) as follows:

**701—80.2(22,35,426A) Military service tax exemption.****80.2(1) Application for exemption.**

a. No military service tax exemption shall be allowed unless the first application for the military service tax exemption is signed by the owner of the property or the owner’s qualified designee and filed with the city or county assessor on or before July 1 of the current assessment year ~~(1970 O.A.G. 437)~~. Once filed, the claim for exemption is applicable to subsequent years and no further filing shall be required provided the claimant or the claimant’s spouse owns the property on July 1 of each year. The assessor, county auditor, and county board of supervisors shall act on the claim in accordance with Iowa Code section 426A.14. A claim filed after July 1 of any calendar year applies to the following assessment year.

b. to e. No change.

**80.2(2) Eligibility for exemption.**

a. A person who was discharged from the draft is not considered a veteran of the military service and is not entitled to a military service tax exemption. ~~(1942 O.A.G. 79)~~

b. A military service tax exemption shall not be allowed to a person whose only service in the military was with a foreign government. ~~(1932 O.A.G. 242; 1942 O.A.G. 79)~~

c. Former members of the United States armed forces, including members of the Coast Guard, who were on active duty for less than 18 months must have served on active duty during one of the war or conflict time periods enumerated in Iowa Code ~~Supplement~~ section 35.1. If former members were on active duty for at least 18 months, it is not necessary that their service be performed during one of the war or conflict time periods. Former members who opted to serve five years in the reserve forces of the United States qualify if any portion of their enlistment would have occurred during the Korean Conflict (June 25, 1950, to January 31, 1955). There is no minimum number of days a former member of the armed forces of the United States must have served on active duty if the service was performed

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during one of the war or conflict time periods, nor is there a minimum number of days a former member of the armed forces of the United States must have served on active duty if the person was honorably discharged because of a service-related injury sustained while on active duty.

Former and current members of the Iowa national guard and reserve forces of the United States need not have performed any active duty if they served at least 20 years. Otherwise, they must have been activated for federal duty, for purposes other than training, for a minimum of 90 days. Also, it is not a requirement for a member of the Iowa national guard or a reservist to have performed service within a designated war or conflict time period.

d. With the exception of members of the Iowa national guard and members of the reserve forces of the United States who have served at least 20 years and continue to serve, a military service tax exemption shall not be allowed unless the veteran has received a complete and final separation from active duty service. (*Jones v. Iowa State Tax Commission*, 247 Iowa 530, 74 N.W.2d 563, 567-1956; *In re Douglas A. Coyle*, State Board of Tax Review, No. 197, August 14, 1979; 1976 O.A.G. 44)

e. As used in Iowa Code subsection 426A.12(3), the term minor child means a person less than 18 years of age or less than 21 years of age and enrolled as a full-time student at an educational institution.

f. A veteran of more than one qualifying war period is entitled to only one military service tax exemption, which shall be the greater of the two exemptions. (1946 O.A.G. 71)

g. The person claiming a military service tax exemption must be an Iowa resident. However, Therefore, if the exemption is claimed by a qualified individual enumerated in Iowa Code section 426A.12, the veteran need not be an Iowa resident if such person's exemption is claimed by a qualified but the individual enumerated in Iowa Code section 426A.12 claiming the exemption must be an Iowa resident. (1942 O.A.G. 140)

h. A person who has a life estate interest in property may claim a military service tax exemption on such property. (1946 O.A.G. 155; 1976 O.A.G. 125)

i. A remainder is not eligible to receive a military service tax exemption on property to which a remainder interest is held until expiration of the life estate. (1946 O.A.G. 155)

j. A military service tax exemption shall not be allowed on a mobile home which is not assessed as real estate. (1962 O.A.G. 450)

k. A divorced person may not claim the military service tax exemption of a former spouse who qualifies for the exemption. (Letter O.A.G. August 8, 1961)

l. A surviving spouse of a qualified veteran, upon remarriage, loses the right to claim the deceased veteran's military exemption as the surviving spouse is no longer an unremarried surviving spouse of the qualified veteran. (1950 O.A.G. 44)

m. An annulled marriage is considered to have never taken place and the parties to such a marriage are restored to their former status. Neither party to an annulled marriage can thereafter be considered a spouse or surviving spouse of the other party for purposes of receiving the military service tax exemption. (Op. Att'y. Gen. 61-8-10(L))

n. ~~No military service tax exemption shall be allowed on property that is owned by a corporation, except for a family farm corporation where a shareholder occupies a homestead as defined in Iowa Code section 425.11(1), partnership, company or any other business or nonbusiness organization. (1938 O.A.G. 441)~~ However, a family farm corporation, as defined in Iowa Code section 9H.1, where a shareholder of the family farm corporation occupies a homestead, as defined in Iowa Code section 425.11(1), may receive the military service tax exemption.

o. In the event both a husband and wife are qualified veterans, they may each claim their military service tax exemption on their jointly owned property. (1946 O.A.G. 154) If property is solely owned by one spouse, the owner spouse may claim both exemptions on the property providing the nonowner spouse's exemption is not claimed on other property.

p. No military service tax exemption shall be allowed if on July 1 of the claim year, the claimant or the claimant's unremarried surviving spouse is no longer the owner of the property upon which the exemption was claimed.

## REVENUE DEPARTMENT[701](cont'd)

*q.* A person shall not be denied a military service tax exemption even though the property upon which the exemption is claimed has been pledged to another person as security for a loan. (1960 O.A.G. 263)

*r.* A qualified veteran who has conveyed property to a trustee shall be eligible to receive a military service tax exemption on such property providing the trust agreement gives the claimant a beneficial interest in the property. (1962 O.A.G. 434)

*s.* A person owning property pursuant to Iowa Code chapter 499A or 499B is eligible for a military service tax exemption. (1978 O.A.G. 78-2-5; 1979 O.A.G. 79-12-2)

*t.* and *u.* No change.

**80.2(3) Application of exemption.**

*a.* When the owner of homestead property is also eligible for a military service tax exemption and claims the exemption on the homestead property, the military service tax exemption shall be applied prior to the homestead tax credit when computing net property tax. (*Ryan v. State Tax Commission*, 235 Iowa 222, 16 N.W.2d 215)

*b.* If a portion of the property upon which a valid military service tax exemption was claimed is sold on or before July 1 of the year in which the exemption is claimed, the seller shall be allowed a military service tax exemption on that portion of the property which is retained by the seller on July 1. The purchaser is also eligible to receive a military service tax exemption on that portion of the property which was purchased, provided the purchaser is qualified for the exemptions and files a valid application for the exemption on or before July 1 of the claim year.

*c.* A military service tax exemption may be allowed even though the taxes levied on the property upon which the exemption is claimed have been suspended by the board of supervisors. (1938 O.A.G. 288)

*d.* A military service tax exemption shall not be allowed if the taxes levied on the property upon which the exemption is claimed have been canceled or remitted by the board of supervisors. (1956 O.A.G. 78)

*e.* The county treasurer shall, pursuant to Iowa Code section 25B.7, be required to extend to the claimant only that portion of the exemption estimated by the department to be funded by the state appropriation.

This rule is intended to implement Iowa Code sections 22.7, 35.1, and 35.2 and chapter 426A.

**ARC 5101C**

**TRANSPORTATION DEPARTMENT[761]**

**Notice of Intended Action**

**Proposing rule making related to specially constructed or reconstructed autocycles and providing an opportunity for public comment**

The Department of Transportation hereby proposes to amend Chapter 450, "Motor Vehicle Equipment," 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 17A.3 and 321.23.

*Purpose and Summary*

The proposed amendments relate to motor vehicle equipment for specially constructed or reconstructed autocycles and align with existing legal authority and Department practice.

## TRANSPORTATION DEPARTMENT[761](cont'd)

Iowa Code section 321.1(6A) defines an autocycle as a “three-wheeled motor vehicle originally designed with two front wheels and one rear wheel, a steering wheel rather than handlebars, no more than two permanent seats that do not require the operator or a passenger to straddle or sit astride the vehicle, and foot pedals that control the brakes, acceleration, and clutch, where applicable.” The definition of autocycle also provides that an autocycle is not considered a motorcycle even if the autocycle bears the vehicle identification number (VIN) or has a manufacturer’s certificate of origin that identifies it as a motorcycle. This distinction is important because while an autocycle is encompassed within the broader definition of a motor vehicle, it has unique characteristics that make it different from a traditional motor vehicle or a motorcycle.

Chapter 450 and Iowa Code section 321.23 outline the requirements to obtain a title to a specially constructed or reconstructed vehicle, which means a vehicle that was not originally constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles. Current Chapter 450 addresses the requirements to obtain a title for specially constructed or reconstructed passenger vehicles and motorcycles, and with these proposed amendments, the rules will also now address the specific requirements for a specially constructed or reconstructed autocycle.

Accordingly, these amendments propose new rule 761—450.5(321), which outlines the minimum requirements for constructing and equipping specially constructed or reconstructed autocycles and requires an application similar to what is required for specially constructed or reconstructed motor vehicles and motorcycles. The rule also specifies the type and nature of the required equipment a specially constructed or reconstructed autocycle must contain to be eligible for title and registration including seatbelt, seat, lighting equipment, warning devices, brakes, horn, exhaust system, mirrors, tires and floor pan.

The proposed amendments also clarify for all vehicles covered under Chapter 450 that addition or removal of parts that modify the external appearance of the vehicle so that it is no longer recognizable as the original make or model will cause the vehicle to be considered a specially constructed, reconstructed, street rod or replica vehicle, as applicable.

#### *Fiscal Impact*

This rule making is estimated to have a very minimal fiscal impact to the State of Iowa. As of June 17, 2020, the Department has not received any applications to register a specially constructed autocycle in Iowa. The registration fee for an autocycle is \$20 and is set by Iowa Code section 321.117.

#### *Jobs Impact*

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

#### *Waivers*

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

#### *Public Comment*

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on August 18, 2020. Comments should be directed to:

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

## TRANSPORTATION DEPARTMENT[761](cont'd)

*Public Hearing*

If requested, a public hearing to hear requested oral presentations will be held via conference call. Persons who wish to participate in the conference call should contact Tracy George before 4:30 p.m. on August 18, 2020, to facilitate an orderly hearing. A conference call number will be provided to participants prior to the hearing.

August 20, 2020  
9 to 10 a.m.  
(If requested)

Department of Transportation  
Motor Vehicle Division  
6310 SE Convenience Boulevard  
Ankeny, Iowa

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

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department 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 rule 761—450.1(321) and adopt the following new rule in lieu thereof:

**761—450.1(321) Addresses, information and forms.** Assistance under this chapter is available as follows:

**450.1(1)** Information and forms for vehicle registration and certificate of title may be obtained from the county treasurer or by mail from the Vehicle and Motor Carrier Services Bureau, Iowa Department of Transportation, P.O. Box 9278, Des Moines, Iowa 50306-9278; in person at Iowa Department of Transportation, 6310 SE Convenience Boulevard, Ankeny, Iowa; by telephone at (515)237-3264; or on the department's website at [www.iowadot.gov](http://www.iowadot.gov).

**450.1(2)** Information for inspections may be obtained from the Bureau of Investigation and Identity Protection, Iowa Department of Transportation, 6310 SE Convenience Boulevard, Ankeny, Iowa; by telephone at (515)237-3050; or on the department's website at [www.iowadot.gov](http://www.iowadot.gov).

This rule is intended to implement Iowa Code section 17A.3.

ITEM 2. Amend rule 761—450.2(321), introductory paragraph, as follows:

**761—450.2(321) Equipment requirements for specially constructed, reconstructed, street rod, and replica motor vehicles, other than autocycles, motorcycles and motorized bicycles.** The following standards are minimum requirements for constructing and equipping specially constructed, reconstructed, street rod, and replica motor vehicles other than autocycles, motorcycles and motorized bicycles.

ITEM 3. Amend subrule 450.2(2) as follows:

**450.2(2) Application.** As outlined in rule 761—400.16(321), the applicant shall submit the required application forms and exhibits to the county treasurer. The vehicle and ownership documents shall be examined by the department. If the department determines that the motor vehicle complies with this rule, that the integral parts and components have been identified as to ownership, and that the application forms have been completed properly, the department shall assign an identification number to

## TRANSPORTATION DEPARTMENT[761](cont'd)

the vehicle and certify that the motor vehicle is eligible for titling and registration. If the frame or unibody specified on an application for a specially constructed, reconstructed, street rod, or replica motor vehicle is designated “not for highway use,” the application shall not be approved. The exchange of compatible body parts does not constitute a specially constructed, reconstructed, street rod, or replica motor vehicle. The removal, addition, or substitution of reconstructed motor vehicle parts that modifies the vehicle’s external appearance so that it does not reflect the original make or manufacturer model for that model does constitute a specially constructed, reconstructed, street rod, or replica motor vehicle.

ITEM 4. Amend subrule 450.4(1) as follows:

**450.4(1) Application.** As outlined in rule 761—400.16( 321), the applicant shall submit the required application forms and exhibits to the county treasurer. The vehicle and ownership documents shall be examined by the department. If the department determines that the motor vehicle complies with this rule, that the integral parts and components have been identified as to ownership, and that the application forms have been completed properly, the department shall assign an identification number to the vehicle and certify that the motor vehicle is eligible for titling and registration. If the frame specified on an application for a specially constructed or reconstructed motorcycle or motorized bicycle is designated “not for highway use,” the application shall not be approved. The exchange of compatible body parts does not constitute a specially constructed or reconstructed motorcycle or motorized bicycle. The removal, addition, or substitution of a reconstructed motorcycle or motorized bicycle part that modifies the vehicle’s external appearance so that it does not reflect the original make or manufacturer model does constitute a specially constructed, reconstructed, street rod, or replica motorcycle or motorized bicycle. EXEMPTION: The conversion of a manufactured motorcycle from two wheels to three-wheel operation by the addition or substitution of a bolt-on conversion kit shall not constitute a reconstructed motorcycle.

ITEM 5. Rescind rule 761—450.5(321) and adopt the following new rule in lieu thereof:

**761—450.5(321) Minimum requirements for constructing and equipping specially constructed or reconstructed autocycles.** Minimum requirements for constructing and equipping specially constructed or reconstructed autocycles as defined in Iowa Code section 321.1 are as follows:

**450.5(1) Application.** As outlined in rule 761—400.16(321), the applicant shall submit the required application forms and exhibits to the county treasurer. The vehicle and ownership documents shall be examined by the department. If the department determines that the autocycle complies with rule 761—450.5(321), that the integral parts and components have been identified as to ownership, and that the application forms have been completed properly, the department shall assign an identification number to the autocycle and certify that the autocycle is eligible for titling and registration. If the frame or unibody specified on an application for a specially constructed, reconstructed, street rod, or replica autocycle is designated “not for highway use,” the application shall not be approved. The exchange of compatible body parts does not constitute a specially constructed, reconstructed, street rod, or replica autocycle. The removal, addition, or substitution of reconstructed autocycle parts that modifies the autocycle’s external appearance so that it does not reflect the original make or manufacturer model for that model does constitute a specially constructed, reconstructed, street rod, or replica autocycle.

**450.5(2) Seatbelt.** A seatbelt for each seat shall be installed in the autocycle in accordance with Federal Motor Vehicle Safety Standard No. 209.

**450.5(3) Seat.** A seat that is firmly attached to the autocycle and does not require the operator to straddle or sit astride shall be provided for the use of the operator.

**450.5(4) Lighting equipment.** Every autocycle shall be equipped with at least one headlamp, at least one taillight, and either a taillight or a separate white light that illuminates the license plate if a taillight does not. All original lamps and lighting equipment provided on the autocycle by the manufacturer shall be maintained in working condition or shall be replaced with equivalent equipment.

**450.5(5) Warning devices.** Every autocycle shall be equipped with at least one red reflector, either separate or as part of the taillight or taillights.



## TRANSPORTATION DEPARTMENT[761](cont'd)

**450.5(6) Brakes.** Every autocytle shall be equipped with a braking system, other than a parking brake, in accordance with Iowa Code section 321.431.

**450.5(7) Horn.** Every autocytle shall be equipped with a horn that shall be electrically actuated and shall emit a sound clearly audible from a distance of 200 feet.

**450.5(8) Exhaust system.** Each autocytle with an internal combustion engine shall be equipped with a muffler and emission control system in accordance with federal regulation 49 CFR 393.83. When a muffler and emission control system is factory equipped, neither may be removed.

**450.5(9) Mirrors.** Every autocytle shall be equipped with a mirror that shall consist of a minimum reflective surface of 10 square inches. All mirrors shall be regular in shape (circular, oval, rectangular, or square) and shall not contain sharp edges or projections capable of producing injury.

**450.5(10) Tires.** Every autocytle shall be equipped with tires that comply with the requirements of Iowa Code section 321.440.

**450.5(11) Floor pan.** Every autocytle shall be equipped with a floor pan under the entire passenger-carrying compartment. The floor pan shall support the weight of the number of occupants that the autocytle is designed to carry. The floor pan shall be so constructed that it prevents the entry of exhaust fumes.

This rule is intended to implement Iowa Code section 321.23.

**ARC 5102C****TRANSPORTATION DEPARTMENT[761]****Notice of Intended Action****Proposing rule making related to motorcycle rider education  
and providing an opportunity for public comment**

The Department of Transportation hereby proposes to amend Chapter 602, “Classes of Driver’s Licenses,” and Chapter 635, “Motorcycle Rider Education (MRE),” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 307.12 and 321.179.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 321.179 and 321.180B(5).

*Purpose and Summary*

This proposed rule making relates to motorcycle rider education; aligns with existing legal authority and Department practice; eliminates outdated or irrelevant requirements or options; and accommodates modern, electronic procedures and terminology. The following paragraphs explain the amendments in more detail:

The proposed amendments make a conforming change to subrule 602.2(1) to provide that a certificate of completion of an approved motorcycle rider education course may be submitted electronically through the Department’s online reporting system by a participating Iowa-approved motorcycle rider education provider.

This proposed rule making aligns rule 761—635.2(321), which relates to an approved course in motorcycle rider education, with current Department practice and terminology, including specifying the length of validity of the course approval and renewal procedures, as well as identifying the criteria that a motorcycle must meet to be eligible for use during the on-cycle instruction portion of an approved course.

The proposed amendments update rule 761—635.3(321), which governs motorcycle rider education instructors, to specify the length of validity of the instructor’s license and renewal procedures and to allow an instructor an additional way to qualify for an instructor’s license if the instructor teaches at

## TRANSPORTATION DEPARTMENT[761](cont'd)

least one course in another state, as long as the other state's course is the same nationally recognized course that Iowa uses. The proposed amendments also incorporate the clear driving record standards used by the Department for behind-the-wheel driver education instructors and revise subrule 635.3(3) on license suspensions to reflect the Department's current practice of either canceling or denying the instructor's license if the instructor does not have a clear driving record or meet other qualifications specified in the rules.

Finally, the proposed amendments revise subrule 635.4(1), encompassing motorcycle rider education sponsors; rule 761—635.5(321), the motorcycle rider education fund; and rule 761—635.7(321), license issuance for sponsors, to align with current Department practice and terminology.

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

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on August 18, 2020. Comments should be directed to:

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

*Public Hearing*

If requested, a public hearing to hear requested oral presentations will be held via conference call. Persons who wish to participate in the conference call should contact Tracy George before 4:30 p.m. on August 18, 2020, to facilitate an orderly hearing. A conference call number will be provided to participants prior to the hearing.

August 20, 2020  
1 to 2 p.m.

Department of Transportation  
Motor Vehicle Division  
6310 SE Convenience Boulevard  
Ankeny, Iowa

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

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

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

## TRANSPORTATION DEPARTMENT[761](cont'd)

*Review by Administrative Rules Review Committee*

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

The following rule-making actions are proposed:

ITEM 1. Amend subrule 602.2(1), introductory paragraph, as follows:

**602.2(1) Certificate of completion.** Form 430036 shall be used to submit proof of successful completion of an Iowa-approved course in driver education, motorcycle rider education or motorized bicycle education, except that proof of successful completion of an Iowa-approved course in driver education or motorcycle rider education may instead be submitted through an online reporting system used by participating Iowa-approved driver education schools or motorcycle rider education providers.

ITEM 2. Amend rule 761—635.2(321) as follows:

**761—635.2(321) Approved course in motorcycle rider education.**

**635.2(1)** No change.

**635.2(2)** A sponsor must receive approval from the department prior to the beginning of the first class offered and annually thereafter. Private or commercial sponsors must also be licensed by the department prior to the beginning of the first class that is offered and annually thereafter. Application for license issuance or renewal shall be made to the department ~~on forms provided~~ in a manner determined by the department. The fee for a license or the renewal of a license is \$25 for a private or a commercial sponsor. The fee must be paid by cash, money order or check unless the department approves payment of the fee by electronic means. A money order or check must be for the exact amount and should be made payable to the Treasurer, State of Iowa, or the Department of Transportation.

**635.2(3)** A license to provide motorcycle rider education shall be issued for a calendar year or remainder of a calendar year. The license expires on December 31 but remains valid for an additional 30 days after the expiration date. The application for renewal shall be submitted to the department within 60 days of the expiration date, unless otherwise approved by the department.

**635.2(4)** The approved course uses a nationally recognized, research-based curriculum. Only persons successfully completing all elements of the approved course shall be issued an Iowa certificate of completion for motorcycle rider education. The certificate of completion shall be submitted to the department by the methods provided in 761—subrule 602.2(1). Issuance of an Iowa certificate of completion to persons who do not successfully complete the approved course is cause for revocation of the instructor's license and denial of reimbursement to the sponsor for each student involved.

~~635.2(4)~~ **635.2(5)** Prior to the beginning of on-cycle instruction, a student enrolled in the approved course must be at least 14 years of age, possess a valid driver's license as defined in Iowa Code section 321.1, be able to touch the ground with the balls of both feet while sitting astride the training motorcycle, and complete the motorcycle safety course waiver form, including the signature of a parent or legal guardian if the student is under the age of 18.

~~635.2(5)~~ **635.2(6)** The scheduled time for instruction—classroom, on-cycle, or a combination of both—shall not exceed eight hours in any one calendar day. During on-cycle instruction, a student shall wear a U.S. DOT-approved helmet, an eye-protective device, and protective clothing, including gloves, a long-sleeved shirt or jacket, long pants, and shoes or boots that cover the feet and ankles.

~~635.2(6)~~ **635.2(7)** The student-instructor ratio for classroom instruction shall not exceed 36 to 1. No more than 12 students may receive on-cycle instruction at one time on a single full-size range. The student-instructor ratio for on-cycle instruction shall not exceed 6 to 1.

**635.2(7) 635.2(8)** A driving range used for on-cycle instruction must be paved, free of hazards to motorcycle travel, and have an unobstructed, paved runoff of at least 20 feet in all directions.

*a.* and *b.* Rescinded IAB 9/4/02, effective 10/9/02.

## TRANSPORTATION DEPARTMENT[761](cont'd)

~~635.2(8)~~ **635.2(9)** The sponsor shall provide for each student engaged in on-cycle instruction one fully operational motorcycle manufactured for highway use.

*a.* Each motorcycle must meet two of the following three criteria:

~~a.~~ (1) Have an engine displacement that does not exceed of 500 cubic centimeters or less, or an electric motor of 30 kW or less.

~~b.~~ (2) Have an unladen weight that does not exceed 400 pounds a curb (wet) weight of 440 pounds or less.

~~c.~~ (3) Have a seat height that does not exceed of 30 inches or less.

*b.* A motorcycle that has been modified or contains aftermarket equipment for the purposes of meeting the criteria under paragraph 635.2(9) "*a*" shall not be used for instruction under this subrule.

~~635.2(9)~~ **635.2(10)** The driving test for a Class M driver's license or a motorcycle endorsement may be waived under 761—subrule 604.31(2) provided the applicant has successfully completed the approved course.

ITEM 3. Amend rule 761—635.3(321) as follows:

**761—635.3(321) Instructors.**

**635.3(1) License.** An instructor of the approved course must be licensed by the department. However, an individual who meets the qualifications for a license except for paragraph 635.3(2) "*d*" or ~~who is suspended whose license is denied~~ under paragraph 635.3(3) "*c*" may teach the approved course as provided in those paragraphs.

~~a. and b. Rescinded IAB 9/4/02, effective 10/9/02.~~

**635.3(2) Licensing provisions.** A motorcycle rider education instructor's license shall be issued for a calendar year or remainder of a calendar year. The license expires on December 31 but remains valid for an additional 30 days after the expiration date of the year it is issued. The application for renewal shall be submitted to the department within 60 days of the expiration date, unless otherwise approved by the department. To obtain and retain an MRE instructor's license, an individual must:

*a. to d.* No change.

*e.* After the year in which a license is granted, teach at least one class nationally recognized, research-based motorcycle rider preparation course approved by the department in Iowa or another state each calendar year.

*f.* No change.

*g.* Possess a high school diploma or equivalent. This is not required for a licensed instructor who trained as an MRE instructor before July 1, 1998, and who has taught for an Iowa sponsor after January 1, 1996. Have a clear driving record for the previous two years. A clear driving record means the individual has:

(1) Not been identified as a candidate for driver's license suspension under the habitual violator provisions of rule 761—615.13(321) or the serious violation provisions of rule 761—615.17(321).

(2) No driver's license suspensions, revocations, denials, cancellations, disqualifications or bars.

(3) Not committed an offense that would result in driver's license suspension, revocation, denial, cancellation, disqualification or bar.

(4) No record of a law enforcement investigative report indicating a contributive motor vehicle accident that caused the death or serious injury of another person.

(5) No record of two or more contributive motor vehicle accidents in a two-year period.

**635.3(3) License suspension cancellations and denials.**

*a.* The department shall ~~suspend cancel or deny~~ the MRE license of an MRE instructor ~~whose driving privilege is suspended, revoked, canceled, denied or barred.~~ who does not have a clear driving record under paragraph 635.3(2) "*g*." The ~~suspension~~ cancellation or denial shall remain in effect until the ~~individual's driving privilege is restored.~~ individual has a clear driving record, as defined in paragraph 635.3(2) "*g*."

*b.* The department shall ~~suspend cancel or deny~~ the MRE license of an MRE instructor who fails to maintain a current instructor certification from a nationally recognized motorcycle safety organization

## TRANSPORTATION DEPARTMENT[761](cont'd)

approved by the department. The ~~suspension~~ cancellation or denial shall remain in effect until the certification is current.

c. Each January, the department shall review each MRE instructor's teaching activity and update completion. The department shall ~~suspend~~ deny renewal of the MRE license of an MRE instructor who fails to meet these licensing provisions. The ~~suspension~~ denial shall remain in effect until the individual has done ~~one of~~ the following:

~~(1) Taught two classes of the approved course under the guidance of an experienced, licensed instructor approved by the department.~~

~~(2) Attended the first instruction component of an instructor preparation weekend.~~

~~(3) Completed an Iowa technical assistance review with an instructor trainer.~~

(1) Obtained instructor certification from a nationally recognized motorcycle safety organization approved by the department.

(2) Taught one class of the approved course under the guidance of an experienced, licensed instructor approved by the department.

ITEM 4. Amend subrule 635.4(1) as follows:

**635.4(1)** Sponsors shall:

a. No change.

b. Use only instructors licensed by the department to teach the approved course. However, an individual who meets the qualifications for a license except for paragraph 635.3(2) "d" or ~~who is suspended~~ whose license is denied under paragraph 635.3(3) "c" may teach the approved course as provided in those paragraphs.

c. Maintain liability insurance in an amount of not less than \$1 million, combined single limit, with an aggregate limit of not less than \$2 million, and file a certificate of this insurance with the department. The certificate shall verify coverage for scheduled courses of instruction. The certificate shall name the department and its officers, agents, representatives and employees as additional insureds with respect to all work, deliveries or services performed for them by the named insured, and shall specify that the department of transportation, ~~office of driver and identification services bureau~~, shall be given at least 30 days' prior notice of any material change in or cancellation of the insurance.

A sponsor who is a state agency or public educational institution shall provide written verification of self-insurance to the department.

d. Maintain complete instructional accident report files and furnish this information to the department ~~on forms provided~~ in a manner determined by the department.

e. No change.

f. Allow the department or the department's designee to audit any class of the approved course, either announced or unannounced.

g. No change.

~~h. Participate in the department's centralized motorcycle rider education master schedule.~~

~~i. h.~~ Provide and maintain adequate instructional facilities and equipment to accommodate all components—lecture, audio-visual, and on-cycle—of the approved course.

ITEM 5. Amend rule 761—635.5(321) as follows:

**761—635.5(321) Use of motorcycle rider education fund.** The motorcycle rider education fund may be used for the following purposes:

**635.5(1) Course development.** New or current sponsors may apply to the department for funds to establish delivery of the approved course at an unserved site. Current sponsors may apply for funds to expand delivery at an existing site.

a. No change.

b. Application for funds shall be ~~on forms provided~~ made in a manner determined by the department. Departmental approval shall be based on the geographical area, the number of students to be served and the availability of moneys in the motorcycle rider education fund. The number of

## TRANSPORTATION DEPARTMENT[761](cont'd)

students to be served is determined by range size, the number of courses to be offered, and the number of sponsors providing the course.

*c.* No change.

**635.5(2) *Instructor preparation.*** The department shall sponsor ~~beginning~~ initial instructor preparation courses.

*a.* and *b.* No change.

*c.* Applications for enrollment shall be made ~~on forms provided~~ in a manner determined by the department.

**635.5(3) and 635.5(4)** No change.

**635.5(5) *Reimbursement of per pupil costs.*** The department shall reimburse a sponsor for each student who completes the approved course contingent upon the availability of moneys in the motorcycle rider education fund.

*a.* and *b.* No change.

*c.* Claims for reimbursement shall include a summary of courses taught with site, date, and instructor information, and a report for each class taught that provides the name, age, and driver's license number and gender of each student, and any other information required by the department. Claims for reimbursement shall be submitted ~~on forms provided~~ in a manner determined by the department.

*d.* No change.

ITEM 6. Amend rule 761—635.6(321) as follows:

**761—635.6(321) Information and location.** Applications, forms and information regarding this chapter are available by mail from the ~~Office of Driver and Identification Services Bureau,~~ Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at ~~(515)237-3153~~ (515)244-8725; ~~or~~ by facsimile at ~~(515)237-3071~~ (515)239-1837; or by email at mre.dot@iowadot.us.

ITEM 7. Amend rule 761—635.7(321) as follows:

**761—635.7(321) License issuance.** To be licensed to ~~teach~~ provide MRE, the sponsor's course and instructors must be approved by the department in accordance with this chapter.

**635.7(1) *Issuance and renewal.*** A license to ~~teach~~ provide MRE shall be issued for a calendar year or remainder of a calendar year. The license expires on December 31 and must be renewed annually.

**635.7(2) *Cancellation.*** A license to ~~teach~~ provide MRE shall be canceled if the course or instructors are no longer approved. Also, a license to ~~teach~~ provide MRE shall be canceled if the sponsor does not comply with this chapter.

**ARC 5100C**

**TRANSPORTATION DEPARTMENT[761]**

**Notice of Intended Action**

**Proposing rule making related to undercover law enforcement driver's licenses and providing an opportunity for public comment**

The Department of Transportation hereby proposes to amend Chapter 625, "Driver's Licenses for Undercover Law Enforcement Officers," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 307.12 and 321.189A.

## TRANSPORTATION DEPARTMENT[761](cont'd)

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 321.189A and 321.196 and 6 CFR Section 37.11(i).

*Purpose and Summary*

The proposed rule making aligns the expiration date for a driver's license issued to an undercover law enforcement officer to the applicable expiration date listed in Iowa Code section 321.196 and amends the chapter's implementation sentence.

Currently under subrule 625.3(2), the Department issues driver's licenses to undercover law enforcement officers with a two-year expiration date. However, under Iowa Code section 321.196, a non-undercover law enforcement officer applicant may be issued a driver's license with up to an eight-year expiration date.

Federal REAL ID regulation, 6 CFR, Section 37.11(i), provides that states may issue REAL ID driver's licenses to undercover law enforcement officers and specifies that the REAL ID credentials issued to undercover law enforcement officers shall not be distinguishable from other REAL ID credentials issued by the state.

By restricting an applicant who would be otherwise eligible for an eight-year driver's license to a two-year license, just because the applicant is an undercover law enforcement officer, there is a risk of inadvertently identifying the law enforcement officer as undercover just by the credential expiration date. In most cases, an undercover law enforcement officer applying under non-covert status would typically be eligible for an eight-year credential.

By amending this subrule, the Department will bring the credential issuance length in line with other driver's licenses issued to non-undercover law enforcement applicants and avoid the risk of identifying the credential holder as an undercover law enforcement officer just by virtue of the expiration date listed on the credential.

In accordance with Iowa Code section 321.189A, the Department consulted with the Department of Public Safety on this rule making and it was supportive of these proposed amendments.

*Fiscal Impact*

In FY 2019, the Department issued approximately 24 driver's licenses to undercover law enforcement officers. Each of these licenses has a two-year expiration date. If the licenses were increased to an eight-year expiration date at a cost of \$4 per year of license validity, the Department estimates the proposed rule making will result in approximately \$768 ( $\$32 \times 24$ ) being deposited annually into the Statutory Allocations 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 person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on August 18, 2020. Comments should be directed to:

TRANSPORTATION DEPARTMENT[761](cont'd)

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

*Public Hearing*

If requested, a public hearing to hear requested oral presentations will be held via conference call. Persons who wish to participate in the conference call should contact Tracy George before 4:30 p.m. on August 18, 2020, to facilitate an orderly hearing. A conference call number will be provided to participants prior to the hearing.

August 20, 2020  
 10 to 11 a.m.

Department of Transportation  
 Motor Vehicle Division  
 6310 SE Convenience Boulevard  
 Ankeny, Iowa

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

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

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

*Review by Administrative Rules Review Committee*

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

The following rule-making actions are proposed:

ITEM 1. Amend subrule 625.3(2) as follows:

**625.3(2)** ~~A two-year~~ The license will be issued with an applicable expiration date as provided in Iowa Code section 321.196. The applicant must pay all fees and meet all requirements for the class of license applied for, except that rule 761—601.5(321) is waived in accordance with the provisions in 6 CFR ~~Part 37~~ 37.11.

ITEM 2. Amend **761—Chapter 625**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 22.7, 80G.3, ~~and~~ 321.189A ~~and~~, 321.196 ~~and~~ 6 CFR Part 37.

## 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 2.75%.



TREASURER OF STATE[781](cont'd)

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, 2020, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

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

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:

August 1, 2019 — August 31, 2019	4.00%
September 1, 2019 — September 30, 2019	4.00%
October 1, 2019 — October 31, 2019	3.75%
November 1, 2019 — November 30, 2019	3.75%
December 1, 2019 — December 31, 2019	3.75%
January 1, 2020 — January 31, 2020	3.75%
February 1, 2020 — February 29, 2020	3.50%

USURY(cont'd)

March 1, 2020 — March 31, 2020	3.75%
April 1, 2020 — April 30, 2020	3.50%
May 1, 2020 — May 31, 2020	2.75%
June 1, 2020 — June 30, 2020	2.75%
July 1, 2020 — July 31, 2020	2.75%
August 1, 2020 — August 31, 2020	2.75%

**ARC 5107C****UTILITIES DIVISION[199]****Notice of Intended Action****Proposing rule making related to applications for rate increases by rate-regulated utilities and providing an opportunity for public comment**

The Utilities Board (Board) hereby proposes to rescind Chapter 26, “Rate Cases, Tariffs, and Rate Regulation Election Practice and Procedure,” Iowa Administrative Code, and to adopt a new Chapter 26 with the same title.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 474.5, 476.2 and 476.33.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 476.2, 476.6 and 476.33.

*Purpose and Summary*

The purpose of this rule making is to update and revise the Board’s rules establishing procedures for filing applications for rate increases by rate-regulated utilities. The updates in new Chapter 26 include updating of language regarding electric cooperatives and municipal utilities, implementation of requirements for utilities using a future test year, requirements for the subsequent proceeding based upon a future test year, the filing and notice requirements required to comply with Iowa Code section 476.6, and requirements for general rate case filings by small utility companies. The Board terminated a previous Notice of Intended Action because of the Board’s experience in conducting two rate case proceedings based upon future test years to develop more comprehensive filing requirements and to address issues involving the subsequent proceeding.

The Board issued an order commencing rule making on July 10, 2020. The order is available on the Board’s electronic filing system, [efs.iowa.gov](https://efs.iowa.gov), under Docket No. RMU-2020-0026.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to rule 199—1.3(17A,474,476).

UTILITIES DIVISION[199](cont'd)

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Board no later than 4:30 p.m. on August 18, 2020. Comments should be directed to:

Iowa Utilities Board  
Electronic Filing System (EFS) at [efs.iowa.gov](https://efs.iowa.gov)  
Phone: 515.725.7337  
Email: [efshelpdesk@iub.iowa.gov](mailto:efshelpdesk@iub.iowa.gov)

*Public Hearing*

An oral presentation at which persons may present their views orally or in writing will be held as follows:

October 20, 2020  
9 a.m. to 12 noon

Board Hearing Room  
1375 East Court Avenue  
Des Moines, Iowa

Attendance at the oral presentation may be in person or by webinar. Information to attend by webinar will be located on the Board's website at [iub.iowa.gov](https://iub.iowa.gov) on the Hearing and Meeting Calendar.

Persons who wish to make oral comments at the oral presentation 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 oral presentation and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

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

The following rule-making action is proposed:

Rescind 199—Chapter 26 and adopt the following **new** chapter in lieu thereof:

## CHAPTER 26

## RATE CASES, TARIFFS, AND RATE REGULATION ELECTION PRACTICE AND PROCEDURE

**199—26.1(17A,476) Scope.**

**26.1(1)** This chapter contains utilities board (board) procedural rules and filing requirements for rate-regulated utility rate cases, other rate tariff filings, and rate regulation election by electric cooperatives. The general contested case procedural rules in 199—Chapter 7 apply to these types of proceedings where the rules in this chapter do not provide specific guidance.

**26.1(2)** The provisions of this chapter do not apply to municipal utilities.

**26.1(3)** The provisions of this chapter do not apply to electric utilities with fewer than 10,000 customers or to electric cooperatives or associations subject to the provisions of Iowa Code section 476.1A that have not elected to be rate-regulated by the board.

**26.1(4)** The provisions of this chapter do not apply to natural gas utilities with fewer than 2,000 customers pursuant to Iowa Code section 476.1C unless a valid petition is filed with the board pursuant to Iowa Code section 476.1C(1)“d.”

## UTILITIES DIVISION[199](cont'd)

**199—26.2(17A,476) Definitions.** Terms not otherwise defined in these rules shall be understood to have their usual meanings.

“*Board*” means the Iowa utilities board or a majority of its members.

“*Board staff*” means the staff employed by the board.

“*Bridge period*” means the period between the most recent calendar year and the beginning of the proposed future test year.

“*Commodity*” or “*commodities*” means water, sanitary sewage disposal, storm water drainage, electricity, or natural gas.

“*Effective date*” means the date, approved by the board, on which the utility may begin charging a new rate or charge.

“*Future test year*” means any 12-month period beginning no later than the date on which a proposed rate change is expected to take effect.

“*Historic test year*” means a 12-month period preceding when the application for a general rate increase is filed for which verifiable data exists concerning the utility’s costs and revenues.

“*Rate amounts*” means the total bill rendered to a customer pursuant to a given rate schedule.

“*Rates*” means the per-unit or per-occurrence amounts billed to customers for a recurring or nonrecurring service or commodity rendered or offered by the utility, and any charge, schedule, or regulation which a utility includes in a tariff approved by the board.

“*Subsequent proceeding*” means the proceeding the board is required to conduct subsequent to the effective date of the rates approved by the board based upon a future test year.

“*Written notice*” means any form of written communication, including first-class mail or electronic mail if a customer has elected to receive electronic communications.

**199—26.3(17A,476) Tariffs required.**

**26.3(1) Tariffs to be filed.**

*a.* A rate-regulated public utility shall not make effective any new or changed rate, charge, schedule, or regulation until it has been approved by the board and the board has determined an effective date, except as provided in Iowa Code sections 476.6(8) and 476.6(9). A proposed tariff consistent with this rule shall be filed with an application for a new or changed rate, charge, schedule, or regulation.

*b.* If the proposed new or changed rate, charge, schedule, or regulation is neither rejected nor approved by the board, the board will docket the tariff filing as a formal proceeding within 30 days after the filing date.

*c.* Proposed new or changed rates, charges, schedules, or regulations which contain energy efficiency expenditures and related costs for demand-side programs shall not be included in a rate-regulated utility’s proposed tariff which relates to a general increase in revenue. A utility may propose to recover the costs of process-oriented industrial assessments not related to energy efficiency as defined in rule 199—35.2(476).

*d.* The consumer advocate or any customer affected by the filing may submit within 20 days after the filing date a written objection to the filing and a written request that the board docket the filing, which request the board may grant at its discretion. Such written objections and requests for docketing shall set forth specific grounds relied upon in making the objection or request.

**26.3(2) Transmittal letter and tariff changes.**

*a.* Two versions of all applicable proposed tariff revisions along with an accompanying transmittal letter shall be filed at the same time as an application for a general increase in rates. One version shall be a marked version that shows all of the tariff language changes for which the utility seeks approval. The second version shall be a clean copy of the tariff with all of the proposed tariff language changes incorporated. The transmittal letter shall include or be accompanied by such information as is necessary to explain the nature, effect, and purpose of the proposed tariff. The information shall include, when applicable:

- (1) The amount of the aggregate annual increase or decrease proposed.
- (2) The names of communities affected.

## UTILITIES DIVISION[199](cont'd)

(3) A summary of the reasons for filing and such other information as may be necessary to support the proposed changes.

(4) The number and classification of customers affected.

*b.* The marked version shall show all additions and deletions, with all new language marked by underlined text and all deleted language indicated by strike-through. The original sheet shall include the following symbols in the right margin to indicate the place, nature, and extent of any text changes.

(1) The symbol C shall indicate a change in regulation.

(2) The symbol D shall indicate a discontinued rate or regulation.

(3) The symbol I shall indicate an increased rate.

(4) The symbol N shall indicate a new treatment or regulation.

(5) The symbol R shall indicate a reduced rate.

(6) The symbol T shall indicate a change in the text that does not include a changed rate or regulation.

**199—26.4(17A,476) General rate increase applications filed pursuant to Iowa Code section 476.6.**

**26.4(1)** *Customer notification procedures.* When a utility intends to file an application for a general rate increase pursuant to Iowa Code section 476.6, the utility shall provide notice of the application as described below.

*a. Notification of rate increase to customers.*

(1) All rate-regulated public utilities which propose to increase rates shall provide written notice of the proposed increase to all customers in all affected rate classifications.

1. The written notice shall be mailed or delivered before the application for increase is filed, but not more than 62 days prior to filing the application for increase with the board.

2. A rate-regulated utility shall file its proposed notice, which shall be subject to approval by the board, not less than 45 days before the utility proposes to mail the notice to its customers.

(2) The notice requirements in this paragraph are not applicable to rate increases for telecommunications services. Notice requirements for intrastate access service rates are subject to the requirements of rule 199—22.4(476).

*b. Requirements for rate increase notices.*

(1) Rate-regulated utilities are subject to the notice requirements contained in this paragraph. Examples of approved notices can be found on the board's website at [iub.iowa.gov](http://iub.iowa.gov). At a minimum, customer notification of proposed increases in rates must include the following information:

1. If the utility is proposing to place interim rates in effect, an explanation of the interim rate process applicable to the proceeding and, with respect to such proposed interim rates, all of the information that this subrule requires a utility to submit concerning final rates.

2. A description of the proposed increase in rates.

3. The proposed effective date of the proposed final increase in rates, including a statement that ultimately the board will determine if and when any changes in final rates become effective.

4. The proposed overall increase in total and base rate annual revenues stated in dollars and as a percentage for each applicable customer class. The overall increase shall include the utility's estimated rate case expenses as a separate line item and shall include in footnotes any offsets of the base rate increase that the utility considers relevant.

5. A table that includes the utility's primary customer classes and that, for each class, shows the proposed monthly base rate increase, the proposed monthly base rate increase percentage, the proposed monthly overall increase in the average monthly bill, and the proposed average monthly overall percentage increase. Increases in monthly customer rates, rates for lighting, and similar rates shall be described in a footnote to the table. The utility shall highlight on the notice the rates that are proposed for a customer receiving the notice.

6. If a utility proposes significant changes to nonrecurring rates, a table that contains the following for each nonrecurring rate: the current rate, the proposed rate, and the percent increase.

7. A statement indicating that the impact of the proposed new rates on amounts billed to customers may differ depending on the type and extent of usage.

## UTILITIES DIVISION[199](cont'd)

8. A statement indicating that a written explanation of all current and proposed rate schedules is available without charge from the utility's local business office.

9. A statement indicating how a customer may contact the utility with any questions concerning the proposed increase in rates.

10. A statement indicating that customers have the right to file written objections to the proposed increase with the board and to request a hearing to determine whether the rate increase should be allowed. The statement shall include the board's mailing address, email address, and electronic filing system website address. The statement shall also direct customers to provide the board with any facts that would assist the board in determining the justness and reasonableness of the requested increase and shall indicate that the written objection will be made available to the consumer advocate, who represents the public interest in rate cases before the board.

11. The time, date, and place of any applicable consumer comment meetings. The utility shall include a list of proposed locations for consumer comment meetings, and the location of consumer comment meetings to be included in the notice shall be approved by the board.

12. A statement indicating that, after a thorough investigation, the board will make a determination on final rates, which may be different from those that the utility proposes, and that, if final rates are lower than interim rates or the interim rates are not based upon previously established regulatory principles, the utility shall make refunds, including interest, to customers.

(2) The proposed notice may contain blank spaces for dates, cost figures, and cost percentages; however, the board may request that the utility provide figures to assist the board during its review of the proposed notice.

(3) The notice shall not contain a message from the corporation about the proposed rate increase. The utility may include as a separate document a message from the corporation.

(4) A copy of the notice with the final dates, cost figures, and cost percentages must be filed with the board in the rate proceeding docket at the time of customer notification along with an exhibit showing the calculations of all amounts included in the notice with source references.

(5) The form of the notice, once approved by the board, may not be altered except to include dates, cost figures, and cost percentages reflecting the latest updates. The size and quality of the type used in the notice shall be easily legible.

(6) The utility shall provide the calculations for any amounts or numbers to be included in the notice.

*c. Deficiencies.* Within 30 days of the rate-regulated utility's filing of its proposed customer notice, the board shall issue an order either approving the notice or identifying any deficiencies and setting forth the corrections and additional information necessary for the notice to comply with Iowa Code chapter 476 and with board rules. A notice found to be deficient under this rule shall not constitute adequate notice under Iowa Code section 476.6. If the board fails to issue an order within 30 days of filing, the proposed notice shall be deemed approved without change.

*d. Delivery of notice.*

(1) The notice as approved by the board shall be mailed or delivered electronically to all affected customers pursuant to the timing requirements of paragraph 26.4(1) "a." Notice of proposed increases may be mailed with a regularly scheduled mailing of the utility. Electronic notice shall only be sent to customers who have agreed to receive electronic notice of information from the utility.

(2) The notice shall be conspicuously marked "Notice of Proposed Rate Increase" on the notice itself. If a separate mailing is utilized by a utility for customer notification, the outside of the mailing shall also be conspicuously marked "Notice of Proposed Rate Increase." For notices delivered electronically, the subject line shall include "Notice of Proposed Rate Increase."

(3) Failure of the postal service or Internet service provider to deliver the notice to any customers shall not invalidate or delay the proposed rate increase proceeding.

(4) After the date the first notice is mailed or delivered to any affected customer and until such rates are resolved in proceedings before the board, any person who requests utility service and is affected by the proposed increase in rates shall receive a notice specified in paragraph 26.4(1) "a" not later than 30 days after the date of commencement of service to the customer.

## UTILITIES DIVISION[199](cont'd)

(5) An approved notice is required for each filing proposing a rate increase that is not directly identifiable with a previous customer notification.

*e. Telecommunications service provider rate increases.* This subrule shall not apply to telecommunications service providers proposing to increase rates for interexchange services, excluding extended area service and intrastate access services.

**26.4(2) Applications.** Applications for a general increase in rates based upon either a historic test year or future test year shall include the filing requirements in this subrule. The board shall review the application and supporting testimony, exhibits, and other information to determine if the application is complete and complies with the rules in this chapter. The board may issue an order requiring additional information during its review of the application. Within 30 days of the date the application is filed, the board may reject an application that is not in substantial compliance with the filing requirements in subrule 26.4(4) for a historic test year application or subrule 26.4(5) for a future test year application.

**26.4(3) Temporary rate authority pursuant to Iowa Code section 476.6.** When proposing a general rate increase, a rate-regulated utility may implement without board approval temporary rates ten days or more after filing notice with the board with the effective date of temporary rates pursuant to Iowa Code section 476.6(9).

*a.* A utility that chooses to implement temporary rates pursuant to Iowa Code section 476.6(9) shall file the following information with its application for permanent rates:

(1) A statement that the utility has elected to implement temporary rates pursuant to Iowa Code section 476.6(9).

(2) A bond or other corporate undertaking subject to review and approval by the board that, at a minimum, is equal to the increased amount of revenue that will be recovered through temporary rates. The bond or corporate undertaking shall include a commitment to refund, as directed by the board, any amounts the board determines are in excess of the amounts that would have been collected under final rates ultimately approved by the board and amounts that are not supported by established regulatory principles.

(3) The established regulatory principles that support the amounts included in the temporary rate filing.

(4) All workpapers supporting the request for temporary authority.

*b.* If at the conclusion of the proceeding the board finds that permanent rates are less than temporary rates implemented by a utility, the board shall order refunds with interest calculated at a rate consistent with Iowa Code section 476.6(9) "c."

*c.* If at the conclusion of the proceeding the board determines that the temporary rates were not based upon previously established regulatory principles, the board may order refunds based upon the overpayments made by each individual customer class, rate zone, or customer group with interest calculated at a rate consistent with Iowa Code section 476.6(9) "c."

*d.* Objections to the temporary rates put into effect pursuant to Iowa Code section 476.6(9) shall be raised as an issue in the general rate proceeding through prepared testimony filed by a party and shall be addressed by the board at the hearing and in the board's final rate order, unless otherwise ordered by the board.

*e.* The return on equity used to calculate temporary rates shall not be greater than the return on equity proposed by the utility for permanent rates. The return on equity proposed for permanent rates is a cap and is not presumed reasonable for temporary rates.

**26.4(4) Testimony and exhibits to support applications based on a historic test year.** A utility proposing changes in tariffs or rates which relate to a general increase in revenue based upon a historic test year shall prepare and file with its proposed tariff the following evidence in the form of testimony and exhibits.

*a.* Factors relating to value. A statement showing the original cost of the items of plants and facilities, for the beginning and end of the last available calendar year, and any other factors relating to the value of the items of plants and facilities the utility deems pertinent to the board's consideration, together with information setting forth budgeting accounts for the construction of scheduled improvements.

*b.* Comparative operating data. Information covering the test year.

## UTILITIES DIVISION[199](cont'd)

- (1) Operating revenue and expenses by primary account.
- (2) Balance sheet at beginning and end of test year.
- c. Test year and pro forma income statements. Information setting forth revenues, expenses, net operating income for the last available calendar year, the adjustment of unusual items, and by adjustment to reflect operations for a full year under existing and proposed rates. The format of the information to be filed is available on the board's website at [iub.iowa.gov](http://iub.iowa.gov).
- d. Additional testimony and exhibits for investor-owned utilities. Unless otherwise specified in these rules, the information required to be filed in this paragraph shall be based upon the calendar year immediately preceding the year in which the application for a general rate increase is filed.
  - (1) Rate base for both total company and Iowa jurisdictional operations calculated by utilizing a 13-month average of month-ending balances ending on December 31 of the year preceding the year of filing, and also calculated on a year-end basis, except for the cash working capital component of this figure, which will be computed on the basis of a lead-lag study as set forth in subparagraph 26.4(4) "d"(5).
  - (2) Revenue requirements for both total company and Iowa jurisdictional operations, to include: operating and maintenance expense, depreciation, taxes, and return on rate base.
  - (3) Capital structure calculated utilizing a 13-month average of month-ending balances ending on December 31 of the year preceding the year of filing, and also calculated on a year-end basis.
  - (4) Information supporting the proposed capital structure and information showing the calculation of the proposed capital cost for each component of the capital structure and showing requested return on rate base with capital structure and corresponding capital cost.
  - (5) Cash working capital requirements, including a recent lead-lag study which accurately represents conditions during the test period. For the purposes of this rule, a lead-lag study is defined as a procedure for determining the weighted average of the days for which investors or customers supply working capital to operate the utility.
  - (6) Complete federal and state income tax returns for the two calendar years preceding the year of filing and all amendments to those returns. If a tax return or amendment has not been prepared at the time of filing, the return shall be filed with the board under this subrule at the time it is filed with the Internal Revenue Service or the Iowa department of revenue.
  - (7) Information showing monthly Iowa jurisdictional expense by account as required by 199—Chapter 16 unless, upon application of the utility and prior to filing, the board finds that the utility is incapable of reporting jurisdictional expense on a monthly basis and prescribes another periodic basis for reporting jurisdictional expense.
  - (8) A schedule of monthly consumption (units sold) and revenue by customer rate classes, reflecting separately revenue collected in base rates and adjustment clause revenues.
  - (9) Information showing that the rates proposed will produce the revenues requested and information showing the dollar and percent increases expected for rates of consumption at 50 percent, 100 percent, and 200 percent, or other representative amounts, within major rate classes. In addition to this information, the utility shall submit in support of the design of the proposed rate a narrative statement describing and justifying the objectives of the design of the proffered rate. If the purpose of the rate design is to reflect costs, the narrative statement should state how that objective is achieved and be accompanied by a cost analysis that would justify the rate design. If the rate design is not intended to reflect costs, a narrative statement should be furnished justifying the departure from cost-based rates. This filing shall be in compliance with all other rules of the board concerning rate design and cost studies.
  - (10) All monthly or periodic financial and operating reports to management beginning in January two years preceding the year of filing. The item or items to be filed under this rule include reports of sales, revenue, expenses, number of employees, number of customers, or similar data, and related statistical material. This requirement shall be a continuing one, to remain in effect through the month that the rate proceeding is finally resolved.
  - (11) Information showing monthly tax accruals, separated between federal, state, and property taxes, including the methods used to determine these amounts.



## UTILITIES DIVISION[199](cont'd)

(12) Allocation methods, including formulas, supporting revenue, expenses, and plant or tax allocations.

(13) Information showing interest rates, dividend rates, amortizations of discount and premium and expense, and unamortized 13 monthly balances of discount and premium and expense, ending on December 31 of the year preceding the year of filing, for long-term debt and preferred stock.

(14) Information showing the 13 monthly balances of common stock expense, ending on December 31 of the year preceding the year of filing.

(15) Information showing the 13 monthly balances of paid-in capital in excess of par, separated between common and preferred stock, ending on December 31 of the test year.

(16) Stockholders' reports, including supplements for the year of filing and the two preceding calendar years. If such reports are not available at the time of filing, they shall be filed immediately upon their availability to stockholders.

(17) If applicable, Securities and Exchange Commission Form 10-Q for all past quarters in the year of filing and the preceding calendar year, and Form 10-K for the two preceding calendar years or, if applicable, comparable filings for corporations headquartered outside the United States. If these forms have not been filed with the Securities and Exchange Commission at the time the rate increase is filed, they shall be filed under this subrule immediately upon filing with the Securities and Exchange Commission. This requirement is not applicable for any such reports which are routinely and formally filed with the board.

(18) Any prospectus issued during the year of filing or during the two preceding calendar years.

(19) Consolidated and consolidating financial statements.

(20) Revenue and expenses involving transactions with affiliates and the transfer of assets between the utility and its affiliates, and transactions between the utility and the utility's parent company.

(21) Information showing the following for each of the five calendar years preceding the year of filing, and for each quarter from the first quarter of the calendar year immediately preceding the year of filing through the current quarter.

1. Earnings, annual dividends declared, annual dividends paid, book value of common equity, and price of common equity (each item should be shown per average actual common share outstanding, adjusted for stock splits and stock dividends).

2. Rate of return to average common equity.

3. Common stock earnings retention ratio.

4. For other issues of common stock: net proceeds per common share issued, and number of shares issued and previously outstanding for each issue of common stock.

(22) If the utility is applying for a gas rate increase, the model used to calculate the weather normalization adjustment and documentation supporting the model inputs. The weather normalization model preferred by the board is available on the board's website at [iub.iowa.gov](http://iub.iowa.gov).

(23) All testimony and exhibits in support of the rate filing, attached to affidavits of the sponsoring witnesses. All known and measurable changes in costs and revenues upon which the utility relies in its application shall be included.

1. Unless otherwise required, all testimony, exhibits, and other information shall be filed in the board's electronic filing system as described in rule 199—14.5(17A,476). In addition, three paper copies of all of the documents filed electronically in the board's electronic filing system, including confidential information, shall be provided to the board and three copies to the consumer advocate within five days of the date the application is filed. The paper copies will be exact copies of the documents filed in the board's electronic filing system, with the date stamp from the electronic filing system. The paper copies shall be certified by an officer of the utility or by an attorney representing the utility.

2. If the utility that has filed for the rate increase is affiliated with another company as either parent or subsidiary, the information required in subparagraphs 26.4(4) "d" (3), (4), (6), (13) to (19), and (21) shall be provided for the parent company (if any) and for all affiliates which are not included in the consolidating financial statements filed pursuant to this rule.

e. At the time of filing an application for increased rates based upon a historic test year, all rate-regulated utilities shall file, as exhibits to testimony, all workpapers and data used to prepare

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the analyses, including the Excel spreadsheet version of each Excel-based document containing all formulae, calculations, and specific source references to all keyed-in data, along with a PDF version of each Excel document, formatted for printing. The Excel spreadsheets and PDF documents shall be searchable.

*f.* The utility may file any other testimony and exhibits which it deems pertinent to the application.

*g.* In rate-regulatory proceedings under Iowa Code section 476.6, the board shall consider the use of the most current test period possible in light of existing and verifiable data respecting costs and revenues available as of the date of commencement of the proceedings.

*h.* Known and measurable changes. In rate-regulatory proceedings under Iowa Code section 476.6, the board shall consider:

(1) Verifiable data, existing as of the date of commencement of the proceedings, respecting known and measurable changes in costs not associated with a different level of revenue, and known and measurable revenues not associated with a different level of costs, that are to occur within 12 months after the date of commencement of the proceedings.

(2) Data which becomes verifiable prior to the closing of the record at the hearing respecting known and measurable:

1. Capital infrastructure investments that will not produce significant additional revenues and will be in service in Iowa within nine months after the conclusion of the test year.

2. Cost of capital changes that will occur within nine months after the conclusion of the test year that are associated with a new generating plant that has been the subject of a ratemaking principles proceeding pursuant to Iowa Code section 476.53.

Verifiable data filed pursuant to subparagraph 26.4(4) "h"(2) shall be provided to other parties as soon as the data is available so that other parties have a reasonable opportunity to verify the data to be considered by the board.

*i.* Postemployment benefits other than pensions. For ratemaking purposes, the amount accrued for postemployment benefits other than pensions in accordance with Financial Accounting Statement No. 106 will be allowed in rates where:

(1) The net periodic postemployment benefit cost and accumulated postemployment benefit obligations have been determined by an actuarial study completed in accordance with the specific methods required and outlined by Accounting Standards Codification No. 715, Compensation—Retirement Benefits (ASC 715).

(2) The accrued postemployment benefit obligations have been funded in a board-approved, segregated, and restricted trust account, or alternative arrangements have been approved by the board. Cash deposits shall be made to the trust at least quarterly in an amount that is proportional and, on an annual basis, at least equal to the annual test period allowance for postemployment benefits other than pensions.

(3) The transition obligation is amortized over a period of time determined by the board and does not exceed 20 years.

(4) Any funds, including income, returned to the utility from the trust not actually used for postemployment benefits other than pensions shall be refunded to customers in a manner approved by the board.

(5) The board finds the benefit program and all calculations are prudent and reasonable.

*j.* An actuarial study of the net periodic postemployment benefit cost and accumulated postemployment benefit obligations shall be determined and filed with the board at the time a rate increase is requested, when there has been a change in postemployment benefits other than pensions offered by the utility, or every three years, whichever comes first.

**26.4(5)** *Testimony and exhibits to support applications based on a future test year.* Unless otherwise authorized by the board in writing prior to the filing, an application for a general increase in rates based upon a future test year shall be based upon one test year for each type of service. An application for a general increase in rates based upon a future test year shall not be filed until the effective date of a final order regarding the subsequent proceeding in a previous proceeding based upon a future test year. Filing

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of an application for a general increase in revenue based upon a future test year period shall include the following testimony and exhibits to support the application:

*a.* The future test year period is any 12-month period beginning no later than the date on which the proposed permanent rate change is expected to take effect.

*b.* Projected information. Information setting forth projected revenues, expenses, net operating income of the future test year period, the adjustment of unusual items, and reflecting operations for a full 12-month period under existing and proposed rates shall be filed. The format of the spreadsheets is available on the board's website at [iub.iowa.gov](http://iub.iowa.gov).

*c.* Projected comparative operating data. Information and data for the future test year period.

(1) Projected operating revenue and expenses by primary account.

(2) Projected balance sheet.

*d.* Additional testimony and exhibits. In addition to the foregoing testimony and exhibits, the following information based upon the future test year period shall be filed:

(1) Projected rate base balances for both total company and Iowa jurisdictional operations on a monthly basis.

(2) Projected revenue requirements for both total company and Iowa jurisdictional operations, to include: operating and maintenance expense, depreciation, taxes, and return on rate base.

(3) Projected capital structure.

(4) Information showing the calculation of the proposed capital cost for each component of the capital structure and information showing requested return on rate base with capital structure and corresponding capital cost. Also, components through the bridge period and the test year, including:

1. Debt issuances, principal repayments, and retirement of debt, all by month.

2. Preferred equity issuances and retirements, all by month.

3. Common equity estimated net income, dividends, and capital infusions, all by month.

4. Source and use of funds schedule (cash flow) from the most recent actual balances, by month.

5. Projected interest rates, dividend rates, amortizations of discount, premium, and expense, and unamortized balances of discount, premium, and expense for long-term debt and preferred stock.

6. Projected common stock expense.

7. Projected capital in excess of par, separated between common and preferred stock.

(5) Projected cash working capital requirements, including a lead-lag study which represents conditions during the future test period. For the purposes of this rule, a lead-lag study is defined as a procedure for determining the weighted average of the days for which investors or customers supply working capital to operate the utility.

(6) Projected federal and state income taxes for the future test year.

(7) Information showing projected monthly Iowa jurisdictional expenses by account.

(8) Projected monthly consumption (units sold) and projected revenue by customer-rate classes, separately reflecting revenue collected in base rates and all applicable adjustment clause revenues. The same information for the calendar year prior to the filing of the application shall also be filed.

(9) Information showing that the rates proposed will produce the revenues requested and information showing the dollar and percent increases expected for rates of consumption of 50 percent, 100 percent, and 200 percent of average consumption within major rate classes. The applicant shall submit in support of the design of the proposed rate a narrative statement describing and justifying the objectives of the design of the proffered rate. If the purpose of the rate design is to reflect projected costs, the narrative statement should state how that objective is achieved and be accompanied by a cost analysis that would justify the rate design. If the rate design is not intended to reflect projected costs, a narrative statement should be furnished justifying the departure from cost-based rates.

(10) Projected monthly tax accruals separated between federal, state, and property taxes, including the methods used to determine these amounts.

(11) Allocation methods, including formulas, supporting projected revenue, expenses, plant or tax allocations.

*e.* Workpapers, spreadsheets and formulas. At the time of filing an application for increased rates based upon a future test year, all rate-regulated utilities shall file, as exhibits to testimony, all

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workpapers and data used to prepare the analyses including the Excel spreadsheet version of each Excel-based document containing all formulae, calculations, and specific source references to all keyed-in data, along with a PDF version of each Excel document, formatted for printing. The Excel spreadsheets and PDF documents shall be searchable.

*f.* Additional testimony and exhibits. The applicant may submit any other testimony and exhibits that the applicant deems relevant to the application. Additional testimony and exhibits shall comply with the requirements in paragraph 26.4(5) "e."

*g.* Bridge period. As part of an application based on a future test year, a utility shall file the information required in this paragraph for the bridge period.

(1) Actual utility sales, actual billing determinants by rate schedule, and weather-normalized utility sales, including explanations of weather normalization.

(2) Utility operating revenues by rate schedule, including sales for resale.

(3) Other operating revenues.

(4) Operations and maintenance expenses by primary account, or functional grouping, including:

1. Any amounts previously specifically allowed by the board or otherwise eliminated from current rates.

2. Any regulatory amortizations previously authorized by the board or that are being requested.

3. Additional detail outlining operations and maintenance expenses by labor costs and nonlabor costs.

4. Additional detail bifurcating operations and maintenance expenses that are recovered through automatic adjustment mechanisms.

(5) Utility payroll reconciliation, including:

1. Distribution of total payroll between plant, operations and maintenance, and any other accounts.

2. Assumptions regarding material changes in employee counts, including any full-time equivalent conversions, wage changes assumption, and vacancy factors.

(6) Taxes other than income taxes.

(7) Income taxes, including any net operating losses (NOL) or other tax credits generated or utilized.

(8) Utility plant and other rate base, including:

1. Monthly utility plant in service by major function, summarizing and explaining plant additions, retirements, and transfers.

2. Monthly accumulated reserve for depreciation and amortization by major function, detailing depreciation, retirements, removal, salvage, and other amortizations or adjustments.

3. Depreciation and amortization expense by primary account or functional group.

4. Any regulatory amortizations previously authorized by the board or being requested, including unamortized balances.

5. Monthly balances of utility working capital rate base.

6. Monthly balances of other adjustments to utility rate base.

*h.* Support required for future test year values. For applications proposing an increase in rates based upon a future test year, the utility shall file the following for each forecasted value:

(1) If the forecast utilizes a historic test year amount as the starting point for the future test year forecast, the most recent historic amount, which will serve as the starting point for the future test year forecast.

(2) A step-by-step description of how the forecast was developed, including an explanation of how and why the applicable assumptions, methods, and modeling inputs were used.

(3) Quantification of the impact of each input on the forecasted value. When added to the historic starting point identified in subparagraph 26.4(5) "h"(1), the sum of the impacts should add to the forecasted value. The utility shall provide witness testimony and exhibits with an explanation if the result is different.

*i.* For applications proposing an increase in rates based upon a future test year, the utility shall file the following billing unit information:

(1) Forecasted monthly and annual billing unit information.

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- (2) A step-by-step description of how the forecast was developed, including an explanation of how and why the applicable assumptions, methods, and modeling were used.
- (3) Historic monthly and annual billing units by rate class for each of the most recent two years on a calendar-year basis.
- (4) Reconciliation of the billing units with the sales included in the utility's annual report filing.
- (5) Explanation of any significant customer usage changes between the historic billing units and the forecasted test year billing units. The utility shall include testimony and exhibits with an explanation of any significant changes in large-customer volume sales or large-customer count changes.
- (6) Natural gas utilities shall also provide weather-normalized sales for each of the most recent two years on a calendar-year basis based on the board's preferred weather normalization model.
- (7) If the utility used a starting point other than a historic starting point, the utility shall provide a description and explanation of the starting point used and explain why it was used.
  - j.* If the utility uses a model to project the future test year expenses and revenues, the utility shall provide an explanation of the inputs and assumptions used in the model, the starting point for the model projections if different from the historic test year information, and any other information that supports the projections produced by the model.
  - k.* If the utility uses a model to project future test year expenses and revenues, the utility shall make the model available to receive alternative modeling inputs from the board or any party and make utility personnel or consultants available to explain how the model analyzes the inputs and assumptions to arrive at the results.
  - l.* Unless otherwise required, all testimony, exhibits, and other information shall be filed in the board's electronic filing system as described in rule 199—14.5(17A,476). In addition, three paper copies of all of the documents filed electronically in the board's electronic filing system, including confidential information, shall be provided to the board and three copies to the consumer advocate within five days of the date the application is filed. The paper copies will be exact copies of the documents filed in the board's electronic filing system, with the date stamp from the electronic filing system. The paper copies shall be certified by an officer of the utility or by an attorney representing the utility.

**199—26.5(17A,476) Compliance filings and tariffs.**

**26.5(1)** A utility may file compliance filings and compliance tariffs at any time after the board issues the final order in a rate proceeding, unless otherwise ordered by the board.

**26.5(2)** The consumer advocate and other parties shall file responses, comments, or objections to the compliance filings and tariffs within 20 days of the date the compliance filings or tariffs are filed with the board, unless otherwise ordered by the board.

**26.5(3)** Compliance tariffs shall become effective on the date approved by the board or on a date set by the board.

**199—26.6(17A,476) Subsequent proceeding in rate case proceedings based upon a future test year.** When approving rates based upon a future test year, the board shall set a procedural schedule and hearing date for a review of the approved rates in a subsequent proceeding based upon the requirements of this rule.

**26.6(1) Utility filing requirements for subsequent proceeding.** The utility shall file within 90 days of the end of the 12-month period, which begins on the effective date of the compliance rates approved by the board in the rate case proceeding, the following:

- a.* An updated cost-of-service study that includes only the actual costs, actual revenues, actual sales, and other updates as allowed by the board, by customer class, for the 12-month period since the approved rates went into effect.
- b.* Revenue allocation based on the same methodology used in compliance rates.
- c.* Updated rates based upon actual sales for electric service and based upon the board's preferred weather normalization methodology for natural gas utilities.

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*d.* An updated proof of revenue based upon the updated rates and actual sales as described above, and an exhibit listing and comparing the rates approved by the board with the resulting rates filed in the subsequent proceeding.

*e.* The utility shall identify all changes in the rate base, with supporting documentation, that have occurred during the 12-month period since the approved rates went into effect.

*f.* The utility shall identify the changes in costs or revenues by customer class and on a total utility basis that differ from the costs and revenues that supported the approved rates and calculate a return on equity based upon the actual costs and revenues for the total company. If the total return on equity falls within a standard of reasonableness of 50 basis points above or 50 basis points below the return on equity approved by the board, the actual costs and revenues shall be presumed to be reasonably consistent with the costs and revenues approved by the board.

*g.* The utility shall provide revenue requirement calculations based on actual data.

**26.6(2) *Testimony and exhibits.*** The utility shall file prepared testimony and exhibits in support of the information required by this rule.

**26.6(3) *Other parties' filing requirements.*** Any party to the future test year rate proceeding, or any other party who is granted intervention in the subsequent proceeding, may file prepared testimony, exhibits, and workpapers responding to the utility testimony, exhibits, and workpapers within 30 days of the date the utility files its testimony, exhibits, and workpapers.

**26.6(4) *Hearing to be scheduled.*** In the procedural schedule established by the board, the hearing date of the subsequent proceeding shall be set no more than 90 days from the date the utility files its testimony, exhibits, and workpapers, unless otherwise ordered by the board. The issues to be considered at the hearing are the review of actual revenues and expenses compared to the approved revenues and expenses and, depending on the difference between actual and approved revenues and expenses, whether refunds, rate reductions, or rate increases are appropriate. If the return on equity based upon a review of the actual costs and revenues compared to the costs and revenues approved by the board falls within the standard of reasonableness of 50 basis points either above or below the return on equity approved by the board, the actual costs and revenues shall be presumed to be consistent with the costs and revenues approved by the board, and the board may cancel the hearing.

**26.6(5) *Order addressing issues in subsequent proceeding.*** The board shall issue a final order within 120 days of the filing of the utility's testimony, exhibits, and workpapers required in subrule 26.6(1), unless otherwise ordered by the board. Any increase or reduction in rates based upon a return on equity outside of the 50-basis-point band shall be calculated only to the band and not to the return on equity approved by the board.

**199—26.7(476) Rate case expense.**

**26.7(1)** A utility making an application pursuant to Iowa Code section 476.6 shall file, within one week of the docketing of the rate case, the estimated or, if available, actual expenses incurred to date or to be incurred by the utility in litigating the rate case. Except for expenses incurred in preparation of the rate filing and notification of customers, the expenses shall be limited to expenses incurred in the time period from the date the initial application is filed through the filing of the utility's briefs unless the time period is extended by the board. Each expense shall be designated as either estimated or actual.

**26.7(2)** Estimated or, if available, actual expenses shall identify specifically:

*a.* Printing costs for the following:

- (1) Rate notification letters.
- (2) Initial filing.
- (3) Testimony.
- (4) Briefs.
- (5) Other (specify).

*b.* Postage costs.

*c.* Outside counsel costs, including support personnel:

- (1) The name of each attorney contracted for as outside counsel and the names of support personnel.

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(2) Hours worked by each attorney engaged as outside counsel and support personnel on a weekly basis.

(3) Cost per hour charged by each attorney and support personnel and support for the reasonableness of the rate.

(4) Scope of work and reason outside counsel was needed.

*d.* Outside expert witness/consultant costs:

(1) The name of each outside consultant employed.

(2) Hours each outside consultant worked.

(3) Cost/hour per consultant employed and support for the reasonableness of this rate.

(4) Scope of work and reason consultant was needed.

If a flat-fee arrangement is used for the services of an outside expert witness/consultant, the other information in this paragraph is still required to be provided.

*e.* Expenses stated by individual for both outside consultants, outside counsel, and utility personnel:

(1) Travel.

(2) Hotel.

(3) Meals.

(4) Other (specify).

*f.* Other (specify).

**26.7(3)** Rate case expense shall not include recovery for expenses that are otherwise included in temporary or test year expenses, including salaries for staff preparing the filing, staff attorneys, and staff witnesses. Rate case expense approved for recovery from customers shall include only reasonable, nonrecurring, incremental expenses not covered by test year expenses for the period stated in subrule 26.7(1).

**26.7(4)** Total allowable rate case expense shall include expenses incurred by board staff and the consumer advocate for the time period stated in subrule 26.7(1). The rate case expense to be filed by the utility shall not include these expenses.

**26.7(5)** Estimated rate case expense may be litigated during the rate case proceeding. At the request of the consumer advocate, another party, or the board, the utility shall make witnesses available for cross-examination on any rate case expense item included in the rate case expense.

**26.7(6)** Actual utility expenses shall be filed in the same format and detail as estimated expenses and shall be filed within two weeks after the utility files its reply brief or at some other point as approved by the board. All material differences between estimated and actual expenses shall be fully supported and justified. Objections to actual utility expenses shall be filed within 15 days of the filing of actual expenses.

**26.7(7)** The board may schedule any additional hearings to litigate the reasonableness of the final expenses. At the request of the consumer advocate, another party, or the board, the utility shall make witnesses available for cross-examination on any item included in the rate case expense.

**26.7(8)** The recovery mechanism for rate case expense shall be determined by the board. Recovery may be through base rates, by means of a rider, or otherwise. The applicable recovery period will be determined in the rate proceeding. Recovery through a rider will end once the expense is fully recovered.

**26.7(9)** A utility may recover rate case expenses for the subsequent proceeding for the preparation of the information and filing required in rule 199—26.7(476) through the date of the filing.

**199—26.8(476) Procedural schedule in Iowa Code section 476.6 proceedings.**

**26.8(1)** In any proceeding initiated by a public utility filing for new or changed rates, charges, schedules, or regulations pursuant to Iowa Code section 476.6, the board or presiding officer shall set a procedural schedule. The procedural schedule for an application for a general rate increase and associated revised tariffs shall be as follows unless otherwise ordered by the board:

*a.* Direct and rebuttal testimony and exhibits from the consumer advocate and other parties filed within five months from the date the application for a general rate increase is filed.

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b. The consumer advocate's and other parties' cross-reply testimony and exhibits filed 15 days after responsive testimony.

c. Reply testimony and exhibits from the utility filed not later than six months from the date the application for a general rate increase is filed.

d. Hearing completed not later than seven and one-half months from the date the application for a general rate increase is filed.

e. Briefs of all parties filed not later than eight and one-half months after the date the application for a general rate increase is filed.

**26.8(2)** In setting the procedural schedule in a case, the board or presiding officer shall take into account the existing hearing calendar and shall give due regard to other obligations of the parties, attorneys, and witnesses. The board or presiding officer may, on the board's or the presiding officer's own motion or upon the motion of any party, including the consumer advocate, for good cause shown, change the time and place of any hearing. Any effect such a change has on the remainder of the procedural schedule or the deadline for decision shall be addressed when the change is ordered.

**26.8(3)** Additional time may be granted to a party, including the consumer advocate, upon a showing of good cause for the delay on a case-by-case basis.

**26.8(4)** If any party, including the consumer advocate, wishes to utilize the electric generating facility exception to the ten-month decision deadline contained in Iowa Code section 476.6, the party shall expeditiously file a motion seeking this exception, including an explanation of that portion of the suspended rates, charges, schedules, or regulations necessarily connected with the inclusion of the generating facility in rate base. Any other party may file a response to the motion.

**199—26.9(17A,476) Consumer comment meetings in Iowa Code section 476.6 general rate case proceedings.**

**26.9(1)** The board may hold consumer comment meetings to provide an opportunity for members of the general public who are customers of a rate-regulated utility involved in a general rate case to express their views regarding the case before the board as well as the general quality of service provided by the utility. However, specific service complaints must follow the procedure prescribed in rule 199—6.2(476). Nothing shall prohibit the board from holding consumer comment meetings in any other docketed case.

**26.9(2)** The location of consumer comment meetings shall be approved by the board and included in the notice to customers. A member of the board shall be assigned to preside over a consumer comment meeting. Representatives from the utility shall be present to explain, in a concise manner, the pertinent points of the utility's proposal. The utility's representatives shall also reasonably respond to any questions directed to the utility either at the customer comment meeting or in a subsequent filing in the docket.

**26.9(3)** The consumer comment meeting shall be held in a major population center served by the utility at a time of day convenient to the largest number of customers. The board may schedule consumer comment meetings at multiple locations. Each meeting shall be conducted in a facility large enough to accommodate all who wish to attend. Notice of the consumer comment meeting shall be sent by the board to appropriate media outlets.

**26.9(4)** Individuals may submit written comments to the board. Written comments shall become part of the permanent case file but shall not constitute evidence in the rate proceeding.

**199—26.10(476) Switching from a future test year to a historic test year.** Consistent with Iowa Code section 476.33, a utility may file an application for a rate-regulatory proceeding under Iowa Code section 476.6 using either a historic test year or future test year. A utility shall not file an application for a general rate increase using a historic test year until a full calendar year after the board issues a final order in the future test year subsequent proceeding. If a utility provides both gas and electric service, the limitation in the preceding sentence on using a historic test year shall only apply to the service for which the utility's rates were set using a future test year.



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**199—26.11(476) Rate proceedings for small utilities.** For purposes of this rule, a small utility shall mean a utility subject to rate regulation that serves fewer than 5,000 customers. A small utility that has had a rate case before the board within the past ten years shall be eligible to file an application for a rate increase under this rule no more frequently than once every 24 months.

**26.11(1)** At least 60 days prior to filing an application under this rule, a utility shall participate in a public technical conference with board staff and the consumer advocate at which the utility shall provide an overview of its planned rate increase application.

**26.11(2)** A utility filing under this rule is subject to the notice requirements of subrule 26.4(1) and the temporary rate provisions of subrule 26.4(3).

**26.11(3)** A utility's filing under this rule will take the form of a proposed tariff with a 90-day effective date along with supporting testimony and exhibits.

**26.11(4)** A utility shall file information showing the revenue requirement and revenue deficiency for Iowa jurisdictional operations, a template for which can be found on the board's website at [iub.iowa.gov](http://iub.iowa.gov). If the utility is applying for a gas rate increase, the utility shall file information utilizing the weather normalization model preferred by the board, which is available on the board's website.

**26.11(5)** The filing shall be based upon the following assumptions:

*a.* Adjustments to book values shall be limited to 400 series accounting entries that are required to be excluded from rates.

*b.* Return on equity (ROE) will be based on average ROEs awarded to similar utilities for the prior year as reported by Regulatory Research Associates.

*c.* Utility and parent capital structures will be the same as those approved in the utility's last rate case.

**26.11(6)** The proposed overall rate increase will be applied uniformly to all rates and charges so that no changes in class cost-of-service allocations occur.

**26.11(7)** No new rates, charges, or riders shall be proposed.

**26.11(8)** Proposed rate increases shall be capped at 5 percent.

**26.11(9)** The board establishes a rebuttable presumption that rate case expense in excess of \$50,000 for a filing under this rule is unreasonable.

**26.11(10)** The recovery mechanism for rate case expense shall be determined by the board. Recovery may be through base rates, by means of a rider, or otherwise. The applicable recovery period will be determined in the rate proceeding. Recovery through a rider will end once the expense is fully recovered.

**199—26.12(17A,476) Applications pursuant to Iowa Code section 476.6 that are not general rate increase applications.** At the time a rate-regulated public utility, other than a rural electric cooperative that has elected to be rate regulated by the board, files for new or changed rates, charges, schedules, or regulations, except in conjunction with general rate increase applications, the utility shall file the following:

**26.12(1)** Any cost, revenue, or economic data underlying the filing.

**26.12(2)** An explanation of how the proposed tariff would affect the rates and service of the public utility.

**26.12(3)** All testimony and exhibits in support of the filing, attached to affidavits of the sponsoring witnesses.

**26.12(4)** Automatic adjustment clauses. The notice requirements in this chapter do not apply to rates filed pursuant to an automatic adjustment mechanism approved by the board. Nothing in this paragraph shall be construed to prohibit a public utility from making provision for the automatic adjustment of rates or public utility service, provided that a schedule showing the automatic adjustment of rates shall first be filed with and approved by the board.

**199—26.13(17A,476) Rate investigation pursuant to Iowa Code section 476.3.** The board shall commence a rate investigation as required by Iowa Code section 476.3. Rate investigation filings made pursuant to Iowa Code section 476.3 shall include prepared testimony, exhibits, and workpapers to

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support the issues raised in the complaint, all of which shall conform to the filing requirements for historic test year applications in subrule 26.4(4).

**199—26.14(17A,476) Applications pursuant to Iowa Code section 476.7.**

**26.14(1)** Any rate-regulated utility filing an application with the board requesting a determination of the reasonableness of its rates, charges, schedules, service, or regulations shall submit at the time the application is filed testimony and exhibits to fully support the utility's filing. All such testimony and exhibits shall be given or presented by competent witnesses, under oath or affirmation, at the proceeding ordered by the board as a result of the application, and the proceeding shall be governed by the applicable provisions of 199—Chapter 7 and rule 199—26.4(476).

**26.14(2)** All of the foregoing requirements shall apply in the event the board, on its own motion, initiates a formal proceeding to determine the reasonableness of a public utility's rates, charges, schedules, service, or regulations.

**26.14(3)** All testimony and exhibits shall be marked and identified in compliance with the naming convention as described in the board's electronic filing system filing standards or as required by board order.

**199—26.15(17A,476) Appeal from a presiding officer's proposed decision.** When an appeal is taken from a presiding officer's decision determining the reasonableness of rates, the filing of a notice of appeal in compliance with this rule may be deemed a request for additional time to complete the proceeding and shall extend the date a final order is issued by the board.

**199—26.16(17A,476) Proposal of settlements.**

**26.16(1)** In proposed settlements which resolve all revenue requirement issues in a rate case proceeding, parties to the settlement shall jointly file the revenue requirement calculations reflecting the adjustments proposed to be settled and the following cost-of-service information: an updated cost-of-service study showing the allocation of costs to customer classes, alternative revenue allocations if applicable, the resulting rates, the revenue verification, and the overall increase to total revenues and base rate revenues by class as compared to test year revenues. If the cost of service that supports the settlement is not agreed to by all of the settling parties, each party shall file the information based upon a party's position.

**26.16(2)** In proposed settlements which resolve some revenue requirement issues in a rate case proceeding and retain some issues for litigation, each party to the settlement shall file a revenue requirement calculation reflecting the adjustments proposed to be settled and the parties' positions on any remaining issues to be litigated in addition to cost-of-service information.

**26.16(3)** In proposed settlements which produce an agreed-upon revenue requirement as a mutually acceptable outcome to the proceeding without an agreement on each revenue requirement issue, parties to the settlement shall jointly file as exhibits to the settlement supporting documentation reflecting the specific adjustments for which the parties reached agreement and cost-of-service information.

**26.16(4)** For those revenue issues included in the proposed settlement which were not specifically resolved, the supporting documentation should identify the range between the positions of the parties.

**199—26.17(476) Rate regulation election—electric cooperative corporations and associations.**

**26.17(1) Application of rules.** Electric cooperative corporations and associations shall not be subject to the jurisdiction of the board except as provided in Iowa Code section 476.1A and this chapter.

*a. Procedure for election by members.* Upon petition of not less than 10 percent of the members of an electric cooperative or upon its own motion, the board of directors of an electric cooperative shall order a referendum election to be held to determine whether the electric cooperative shall be subject to the jurisdiction of the board. A petition for election shall be completed within 60 days of commencement.

(1) Any member of an electric cooperative desiring a referendum election shall sign a petition for election addressed to the board of directors of an electric cooperative, in substantially the following form:

UTILITIES DIVISION[199](cont'd)

PETITION FOR ELECTION

TO: (Board of Directors of subject electric cooperative)

The undersigned members request you call an election to submit to the members the following proposition:

Shall . . . (name of the electric cooperative) be subject to rate regulation by the Iowa Utilities Board?

Signature

Address

Date

(2) Where signatures are made on more than one sheet, each sheet of the petition shall reproduce above the signatures the same matter as is on the first sheet. Each petitioner shall sign the petitioner's name in the petitioner's own handwriting and shall write the petitioner's address and the date on which the petitioner signed.

(3) The petition shall be filed with the board of directors of the electric cooperative and an election shall be held not less than 60 days nor more than 90 days from the date on which the petition was filed.

(4) On the election date, the board of directors of the electric cooperative shall mail by first-class mail to each member of the electric cooperative a ballot containing the following language:

Shall . . . (name of the electric cooperative) be subject to rate regulation by the Iowa Utilities Board? Yes/No.

(5) The ballot shall also contain a self-addressed envelope to return the ballot to the secretary of the board of directors of the electric cooperative. The ballot shall be dated when received by the secretary. The ballot must be received by the secretary not more than 30 days after it was mailed to the members. The election procedure shall require a signature form for verification, but shall not allow the signature to be traced to the vote of a particular member.

(6) The issue in the election shall be decided by a majority of the members voting, whose ballots are received by the secretary. Fifty-one percent of the membership shall constitute a quorum for the election. The secretary shall certify the results of the election and file the results with the board within 30 days of the election.

b. Procedure for election by board. Upon the resolution of a majority of the board of directors of an electric cooperative, the board of directors may elect to be subject to the jurisdiction of the utilities board. The secretary of the board of directors of the electric cooperative shall file a certified copy of the resolution with the board of directors within 30 days of the adoption of the resolution.

c. Effective date. Upon the resolution of a majority of the board of directors of an electric cooperative or when a majority of the members voting vote to place the cooperative under the jurisdiction of the board, the utilities board shall determine an effective date of its jurisdiction which shall be not more than 90 days from the election. On and after the effective date of jurisdiction, the cooperative shall be subject to regulation by the utilities board.

d. Prohibited acts. Funds of an electric cooperative shall not be used to support or oppose the issue presented in the election. Nothing shall prohibit a letter of explanation and direction from being enclosed with the ballot.

e. Procedure for exemption. After the cooperative has been under the jurisdiction of the board for two years, the members or the board of directors of the electric cooperative may elect to remove the cooperative from under the jurisdiction of the board as allowed by Iowa Code section 476.1A(4). If the membership elected to have the cooperative's rates regulated by the board, only the membership may elect to exempt the cooperative from the rate regulation authority of the board.

f. Frequency of election. An electric cooperative shall not conduct more than one election pursuant to this subrule within a two-year period.

26.17(2) Rate increase requirements—rural electric cooperatives. The board's consideration of the fair and reasonable level of rates necessary for rural electric cooperatives that have elected to be subject to rate regulation by the board shall include the following:

a. Minimum filing requirements. An electric cooperative subject to rate regulation proposing changes in tariffs or rates which relate to a general increase in revenue shall prepare and file with its proposed tariff evidence in the form of testimony and exhibits.

## UTILITIES DIVISION[199](cont'd)

*b.* Factors relating to value. A statement showing the original cost of the items of plant and facilities, for the beginning and end of the last available calendar year, any other factors relating to the value of the items of plant and facilities the utility deems pertinent to the board's consideration, together with information setting forth budgeting accounts for the construction of scheduled improvements.

*c.* Comparative operating data. Information covering the test year.

(1) Operating revenue and expenses by primary account.

(2) Balance sheet at beginning and end of test year.

*d.* Test year and pro forma income statements. Information setting forth revenues, expenses, net operating income of the last available calendar year, the adjustment of unusual items, and by adjustment to reflect operations for a full year under existing and proposed rates. The format of the information to be filed is available on the board's website at [iub.iowa.gov](http://iub.iowa.gov).

*e.* After investigation of the historic test year results and pro forma adjustments thereto, the board shall determine the extent to which the applicant has met the following conditions:

(1) Revenues are sufficient for a times interest earned ratio between 1.5 and 3.0 for coverage of interest on outstanding utility short-term and long-term debt; or

(2) Revenues are sufficient for a debt service coverage ratio between 1.25 and 2.50 on utility long-term debt; or

(3) Utility operating margins are sufficient for a ratio between 1.5 and 2.5 of utility operating margins to interest on utility short-term and long-term debt; or

(4) Utility operating margins are sufficient for a ratio between 1.25 and 1.75 of utility operating margins plus utility depreciation, all divided by utility long-term interest plus principal; and

(5) Utility operating margins are sufficient to return utility patronage capital credits accumulated from utility operating margins, with a retention of such credits of no more than 20 years allowed, subject to modification where compelling circumstances require time period adjustments.

*f.* In addition to the information in subrule 26.12(2), evidence of the necessity for the requested rate relief may include, but need not be limited to, utility operating margins which will enable the cooperative to attain and maintain a reasonable ratio of utility long-term debt to retained utility operating margins. The cooperative's authorized construction program and an official policy statement of the cooperative's board of directors on a desired ratio will be considered factors in the determination of the reasonableness of any such ratio.

*g.* The board's initial decision will become final 15 days following its date of issuance; however, if filed within that 15-day period, allegations of error by the cooperative or any intervenor as to the board's findings of fact, together with a statement of readiness to present testimony, will serve to hold final disposition in abeyance pending the scheduling and completion of an evidentiary hearing. When such allegation is made, testimony in support of such position must be filed within 30 days of such filing. Upon receipt of the testimony, the board will schedule additional filing dates and set the matter for hearing. When a hearing is scheduled, final disposition of the rate proceeding will be accomplished under the contested case provisions of Iowa Code chapter 17A and the board's rules and regulations thereunder.

These rules are intended to implement Iowa Code sections 466.2, 476.3, 476.6, and 476.33.

**ARC 5120C**

**VOLUNTEER SERVICE, IOWA COMMISSION ON[817]**

**Notice of Intended Action**

**Proposing rule making related to Iowa national service corps program and providing an opportunity for public comment**

The Iowa Commission on Volunteer Service hereby proposes to adopt new Chapter 14, "Iowa National Service Corps Program," Iowa Administrative Code.

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

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 15H.9.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, 2018 Iowa Acts, House File 2420.

*Purpose and Summary*

This rule making is intended to implement Iowa Code section 15H.9 regarding the National Service Corps rules. The Iowa National Service Corps Program provides a process for the creation of national service programs so that more Iowans can serve their country. These rules outline the process to apply for and receive approval as an Iowa National Service Corps program.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

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

*Public Comment*

Any interested person may submit comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Commission no later than 4:30 p.m. on August 18, 2020. Comments should be directed to:

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

*Public Hearing*

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

*Review by Administrative Rules Review Committee*

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

The following rule-making action is proposed:

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

Adopt the following new 817—Chapter 14:

CHAPTER 14  
IOWA NATIONAL SERVICE CORPS PROGRAM

**817—14.1(15H) Purpose and program description.** The Iowa commission on volunteer service certifies national service programs that meet the standards established in Iowa Code section 15H.9. The Iowa commission on volunteer service also provides training, resources, and support services to Iowa national service corps programs. In partnership with approved programs, the Iowa commission on volunteer service strives to provide opportunities for state agencies, political subdivisions of the state, and private, nonprofit organizations to create national service programs outside of existing state and federal programs to meet state and local needs and to provide more opportunities for Iowans to serve their state and country and foster a cultural expectation of service in Iowa through a unified service corps.

**817—14.2(15H) Definitions.** For purposes of this chapter, unless the context otherwise requires:

“*Approval*” means the process for identifying service programs as meeting the criteria to become eligible for Iowa national service corps program benefits and technical assistance.

“*Commission*” means the Iowa commission on volunteer service.

“*Host site*” means the physical location where an Iowa national service corps member is based for the period of service in the Iowa national service corps program. The sponsoring organization may be the host site.

“*Iowa national service corps approval application*” means the application used to determine an applicant’s designation as an approved Iowa national service program. The application contains information that can be used to determine an applicant’s designation as an approved Iowa national service corps program.

“*Iowa national service corps member*” or “*corps member*” means a participant in an approved Iowa national service corps program.

“*Iowa national service corps program*” or “*national service corps program*” means a program that provides meaningful service opportunities to individuals, provided that the program meets the following requirements:

1. The program is approved via the automatic approval, reciprocal approval, or regular approval process.
2. The program is located in this state or has sites operating in the state.
3. The program is operated by one of the following entities: a state agency, a political subdivision of the state, or a private, nonprofit organization (state agencies or political subdivisions of the state may establish Iowa national service corps programs or contract with a third-party vendor to assist the agency or political subdivision in establishing such programs).
4. The program is developed to meet state and local needs and to provide more opportunities for Iowans to serve their state and country and foster a cultural expectation of service in Iowa through a unified service corps.

“*Sponsoring organization*” means the entity operating the Iowa national service corps program, which is responsible for submitting the Iowa national service corps approval application and meeting requirements for approved programs.

**817—14.3(15H) Approval.** Before a national service corps program can access the benefits of the Iowa national service corps, it must be approved by the commission.

**14.3(1) Automatic approval.** Existing programs and service positions in the following categories are automatically approved: AmeriCorps programs in Iowa created pursuant to 42 U.S.C. §12501, Senior Corps and AmeriCorps VISTA in Iowa created pursuant to 42 U.S.C. §4950 et seq., the Iowa summer youth corps program created pursuant to Iowa Code section 15H.5, the Iowa green corps program created pursuant to Iowa Code section 15H.6, the Iowa reading corps program created pursuant to Iowa Code

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

section 15H.7, the RefugeeRISE AmeriCorps program created pursuant to Iowa Code section 15H.8, and the Iowa conservation corps created pursuant to Iowa Code section 84A.7.

**14.3(2) *Reciprocal approval.*** Existing programs and service positions recognized by another service year certifying body may request reciprocal approval by following the process outlined on the commission's website.

**14.3(3) *Regular approval.*** All other entities seeking approval for their service programs or positions should follow the regular approval process by completing an Iowa national service corps approval application.

*a.* Applications for national service corps program approval are available from the Iowa commission on volunteer service's website.

*b.* A review team designated by the commission shall review applications from national service corps programs to determine whether the national service corps programs or positions are eligible to participate in the program.

*c.* Applicants shall receive written notification of the commission's decision. Written notification will also be provided regarding the due dates and process for submission of program reports.

*d.* Full approval means the commission has determined that the national service corps program has met the established standards.

*e.* Conditional approval means the commission has temporarily approved the national service corps program before the program becomes fully operational or before the program has met the standards for full approval.

*f.* Any program that is denied approval or decertified for any reason bears the burden of proving that all deficiencies previously cited have been corrected. Corrections shall be in accordance with requirements of the Iowa commission on volunteer service.

**14.3(4) *Documentation.*** Additional documentation may be required to verify elements of the application. Documentation verifying a program's compliance with approval standards may be required by the commission during the approval process. Each program shall provide relevant information upon the commission's request in order to be considered for approval. National service corps programs may be requested to provide documentation of continued eligibility at any time during and after approval.

**14.3(5) *Duration of approval.***

*a.* Automatic approval will be in effect as long as the program is recognized as one of the automatically approved programs listed in subrule 14.3(1).

*b.* Reciprocal approval will be in effect as long as the program is recognized by the other certifying body.

*c.* Regular approval.

(1) Full approval may be in effect for three years, as long as the program continues to meet the approval standards.

(2) Conditional approval may be in effect for six months and may be used for the purpose of applying for program benefits and technical assistance available to approved national service corps programs. The commission may grant an extension of conditional approval if it is determined that significant progress is being made toward meeting the requirements for full approval. It shall be the responsibility of the national service corps program to notify the commission when the program believes it has met the full approval criteria.

(3) A national service corps program may renew its approval. Programs whose full approval has expired should reapply using the application form available on the commission's website.

**817—14.4(15H) Approval standards.** The commission has established standards to certify national service corps programs. These standards are based on a combination of factors established by the Corporation for National and Community Service, the Service Year Alliance, and the existing rules for the Iowa summer youth corps program created pursuant to Iowa Code section 15H.5, the Iowa green corps program created pursuant to Iowa Code section 15H.6, the Iowa reading corps program created pursuant to Iowa Code section 15H.7, the RefugeeRISE AmeriCorps program created pursuant to Iowa Code section 15H.8, and the Iowa conservation corps created pursuant to Iowa Code section 84A.7.

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

**14.4(1) Program design.** The national service corps program should have a program design defining the impact the program will have on the community, sponsor organization, and service corps members. The program design must identify how the national service program will address a state or local need and how the program will promote a sense of civic engagement in program participants.

**14.4(2) Corps member position description.** The national service corps program shall have written descriptions/plans for high-quality service activities. National service corps member activities must be clearly delineated from those of employees of the sponsoring organization and host site.

**14.4(3) Orientation.** The national service corps program shall have an orientation for national service corps members, including clarification on how the member service activities differ from employee responsibilities.

**14.4(4) Eligibility.** The national service corps program shall have eligibility screening for national service corps members, commensurate to the service activities to be conducted and the population to be served. National service corps programs shall set and meet minimum requirements for checking the criminal history of national service corps member applicants and considering the following results when selecting corps members:

- a. Criminal background and sex offender registry checks for corps members over the age of 18.
- b. Reference checks for corps members under the age of 18.

**14.4(5) Training and professional development.** The national service corps program shall provide ongoing training and professional development to the national service corps members.

**14.4(6) Member supervision.** The national service corps program shall demonstrate the ability to effectively supervise the national service corps members.

**14.4(7) Certification of member service.** Upon successful completion of the term of service by the Iowa national service corps member, the sponsor organization shall issue a certification of service letter to the corps member. The letter should include, at a minimum, the name of the corps member, whether the corps member served in a full-time or less than full-time capacity, the dates of service (if the corps member served in a full-time capacity) or the hours of service (if the corps member served in a less than full-time capacity), the name of the sponsor organization, and a contact person at the sponsor organization.

**14.4(8) Compliance process.** The national service corps program shall have a process for ensuring compliance with program standards.

**14.4(9) Program impact.** The national service corps program should have a method for tracking progress towards the established goals of the program.

**14.4(10) Organizational capacity.** The sponsoring organization shall have an established history and demonstrate the staff capacity and experience to effectively oversee the national service corps program.

**14.4(11) Financial capacity, cost effectiveness and budget adequacy.** The sponsoring organization should demonstrate the financial capacity to administer the national service corps program, including any living allowances or stipends provided to national service corps members. The national service corps program budget should be sufficient to provide the national service corps member(s) with the tools needed to be effective in the assigned tasks.

**14.4(12) Risk management.** The national service corps program should practice appropriate risk management strategies for the approved national service corps positions.

**817—14.5(15H) Application process.**

**14.5(1) Sponsor organization approval process.** Eligible organizations may request approval using the application materials available through the commission's website.

**14.5(2) Iowa national service corps member process.** Prospective national service corps members should apply directly to an approved Iowa national service corps program. Prospective corps members must meet the approved program's eligibility requirements and agree to the program standards.

**817—14.6(15H) Special consideration.** In addition to the standards set forth in rule 817—14.4(15H), the commission may consider other factors to determine approval status to ensure that only high-quality national service corps programs are approved.



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

**14.6(1) *On-site audits.*** At the discretion of the commission, on-site audits may be conducted to determine approval.

**14.6(2) *Reporting.*** Programs that fail to submit required documentation are at risk of decertification and may be deemed ineligible to receive the benefits of approval, including complimentary training registration and inclusion on the Iowa commission on volunteer service website.

**817—14.7(15H) Decertification.** A national service corps program shall be decertified by the commission if it is determined that the program no longer meets the approval standards identified herein for a high-quality national service corps program, if program personnel cannot be contacted by the commission, if the program fails to provide documents requested by the commission or if the program fails to complete any required Iowa national service corps annual report.

**14.7(1)** Written notice of the intent to revoke approval shall be provided to a national service corps program when the commission determines that there is reasonable cause to believe the program does not comply with these rules. Notice shall be sent at least 30 days before decertification becomes effective.

**14.7(2)** Decertification procedures may be initiated by the commission, by the program, or following investigation of a complaint filed by the general public. A request for an investigation from the public must be in written form and shall specify the reason(s) why the approved national service corps program no longer meets the approval standards. Supporting documentation may be attached to the request. The identity of the complainant is confidential pursuant to Iowa Code section 22.7(18).

**14.7(3)** Benefits and designation as an approved national service corps program will continue until the final decision is issued by the commission.

**817—14.8(15H) Fraudulent practices in connection with approved national service corps programs.** A person is considered to be guilty of a fraudulent practice if the person knowingly falsifies information on an application for the purpose of obtaining approval and any other potential benefits, including those offered through the Iowa commission on volunteer service or other state contracts and grants available only to approved national service corps programs. The commission may investigate allegations or complaints of fraudulent practices and will take action to decertify a national service corps program upon concluding that a violation has occurred. A violation under this rule is grounds for decertification of the national service corps program responsible for the violation. Decertification shall be in addition to any penalty otherwise authorized.

**817—14.9(15H) Appeal procedure.** Commission decisions regarding approved national service corps programs may be contested by an adversely affected party as detailed in 817—Chapter 5.

**817—14.10(15H) Intergovernmental agreements.** Approved Iowa national service corps programs are considered governmental entities in accordance with rule 11—118.4(8A). As such, state agencies or political subdivisions of the state may enter into an agreement for services with any approved Iowa national service corps program directly or through an agreement with the commission and are not required to use competitive selection.

**817—14.11(15H) Program administration.** State agencies or political subdivisions of the state may establish Iowa national service corps programs or contract with a third-party vendor to assist the agency or political subdivision in establishing such programs. In the case that a vendor is utilized, the program is still considered a governmental entity for the purposes of intergovernmental agreements pursuant to rule 11—118.4(8A).

**817—14.12(15H) Funding priority.** State agencies or political subdivisions of the state may give priority to grants or projects funded that utilize Iowa national service corps programs.

**817—14.13(15H) Hiring preferences.**

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

**14.13(1)** State agencies or political subdivisions of the state may establish hiring preferences for any Iowa national service corps or AmeriCorps participant who has successfully completed a year of full-time service or 1,700 hours over a period extending beyond a year.

**14.13(2)** Iowa national service corps members may request a letter verifying their eligibility for a hiring preference from the program in which they served or agencies may independently verify upon application.

**817—14.14(15H) Participant employment status.** A person participating in the Iowa national service corps program is not an employee of the organization in which the person is enrolled regardless of whether a stipend is provided; shall be exempt from the merit system requirements of Iowa Code chapter 8A, subchapter IV; and is not eligible to receive unemployment compensation benefits under Iowa Code chapter 96 upon completion of service.

These rules are intended to implement Iowa Code chapter 15H.

**ARC 5118C**

**AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]**

**Adopted and Filed**

**Rule making related to bulk dry animal nutrients license renewals**

The Agriculture and Land Stewardship Department hereby amends Chapter 49, “Bulk Dry Animal Nutrients,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 200A.4.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 200A.5.

*Purpose and Summary*

This rule making allows for the renewal of a bulk dry animal nutrients license for a two-year period.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 26, 2020, as **ARC 4944C**.

A public hearing was held on March 18, 2020, at 9 a.m. by telephone. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Department on July 6, 2020.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

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

*Review by Administrative Rules Review Committee*

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

*Effective Date*

This rule making will become effective on September 2, 2020.

The following rule-making action is adopted:

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

Rescind rule 21—49.2(200A) and adopt the following **new** rule in lieu thereof:

**21—49.2(200A) License.** A person who distributes a bulk dry animal nutrient product in this state must first obtain a license from the department. A license application must be submitted to the department, on a form furnished by the department, according to procedures required by the department. A license shall expire on July 1 of each even-numbered year following the date the license is issued. A license may be renewed for a two-year period as provided by the department. A person required to obtain a license shall pay the department a fee equal to \$20 for each place from which the person distributes a bulk product in this state.

[Filed 7/10/20, effective 9/2/20]

[Published 7/29/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/29/20.

**ARC 5119C**

**INSPECTIONS AND APPEALS DEPARTMENT[481]**

**Adopted and Filed**

**Rule making related to food and consumer safety and food establishment and food processing plant inspections**

The Inspections and Appeals Department hereby amends Chapter 30, "Food and Consumer Safety," and Chapter 31, "Food Establishment and Food Processing Plant Inspections," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 10A.104 and 137F.2.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 10A.104 and 137F.2 and 2019 Iowa Acts, Senate File 265.

*Purpose and Summary*

The amendments update the reference to the adopted parts of the Code of Federal Regulations. Subrule 31.2(9) currently adopts the 2018 Code of Federal Regulations, and this rule making adopts the same sections of the 2019 Code of Federal Regulations. No substantive changes were made to the pertinent parts of the 2019 Code of Federal Regulations.

The amendments define "patrol dog" and "pet dog" and prescribe standards for permitting dogs on exterior premises of food establishments, including outdoor patio and outdoor dining areas.

Finally, the amendments implement additional changes made to Iowa Code chapter 137F regarding rules for the sale at a farmers market of culinary mushrooms commonly referred to as a variety of wild oyster. Pursuant to the enactment of 2019 Iowa Acts, Senate File 265, codified at Iowa Code section 137F.2(2), the Department adopted rules for the sale at a farmers market of culinary mushrooms commonly referred to as a variety of wild oyster. In association with the requirement in Iowa Code section 137F.2(2) that the Department adopt rules for the sale at a farmers market of culinary mushrooms commonly referred to as a variety of wild golden oyster and classified as *Pleurotus ostreatus*, *Pleurotus populinus*, or *Pleurotus pulmonarius*, and under the general authority of Iowa Code section 137F.2(1) permitting the Department to adopt by reference the United States Food and Drug Administration Food Code with amendment, the Department is updating the rules it previously adopted by expressly referring to another variety of wild oyster mushroom, *Pleurotus citrinopileatus*.

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

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 12, 2020, as **ARC 4923C**.

The Department received comments from 27 members of the public regarding the amendment to permit dogs on exterior premises of food establishments. The overwhelming sentiment of the public commentary was positive, with 25 of the 27 comments submitted in support of the amendment. Two of the 27 comments submitted were against the amendment. One individual against the amendment was interested in eating “in peace” without worry of dogs misbehaving or depositing excrement or bodily fluids. The other individual against the amendment recounted a long-standing and debilitating fear of dogs.

The Department received a suggestion to permit dog owners to bring their own reusable dishes, citing environmental concerns for the requirement that food or water provided to the dogs shall only be in single-use disposable containers provided by the food establishment. The Department accordingly revised the rule to permit food or water provided to the dogs be from a container provided by the pet owner that is filled without any contact between the container and any dispensing item of the food establishment.

*Adoption of Rule Making*

This rule making was adopted by the Department on July 2, 2020.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Review by Administrative Rules Review Committee*

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

*Effective Date*

This rule making will become effective on September 2, 2020.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** definitions of “Patrol dog” and “Pet dog” in rule **481—30.2(10A,137C,137D,137F)**:

“*Patrol dog*” means a dog that is accompanying a law enforcement officer or security officer.

“*Pet dog*” means a dog that does not meet the definition of a “patrol dog” or a “service animal” as defined in the Code of Federal Regulations, Title 28, Part 36.

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

ITEM 2. Amend subrule 31.1(4) as follows:

**31.1(4)** *Morel mushrooms and oyster mushrooms (Pleurotus citrinopileatus, Pleurotus ostreatus, Pleurotus populinus, or Pleurotus pulmonarius)*. Section 3-201.16, paragraph (A), is amended by adding the following:

“A food establishment or farmers market time/temperature control for safety food licensee may serve or sell morel mushrooms or oyster mushrooms (a variety classified as Pleurotus citrinopileatus, Pleurotus ostreatus, Pleurotus populinus, or Pleurotus pulmonarius) if procured from an individual who has completed a wild-harvested mushroom identification expert course. Every morel mushroom or oyster mushroom shall be identified and found to be safe by a certified wild-harvested mushroom identification expert whose competence has been verified and approved by the department through the expert’s successful completion of a wild-harvested mushroom identification expert course provided by either an accredited college or university or a mycological society. The course may address identification of morel mushrooms, oyster mushrooms, or both. The certified wild-harvested mushroom identification expert shall personally inspect each mushroom and determine it to be a morel mushroom or an oyster mushroom. A wild-harvested mushroom identification expert course shall be at least two hours in length and include a visual identification exercise for each wild-harvested mushroom species that the individual will be certified to identify at the completion of the course. The individual’s certification of successful completion of the course must clearly indicate whether the certified wild-harvested mushroom identification expert is certified to identify morel mushrooms, oyster mushrooms, or both.

“To maintain status as a wild-harvested mushroom identification expert, the individual shall have successfully completed a wild-harvested mushroom identification expert course described above within the past three years. A person who wishes to offer a wild-harvested mushroom identification expert course must submit the course curriculum to the department for review and approval. Food establishments or farmers market time/temperature control for safety food licensees offering morel mushrooms or oyster mushrooms shall maintain the following information for a period of 90 days from the date the morel mushrooms or oyster mushrooms were obtained:

- “1. The name, address, and telephone number of the wild-harvested mushroom identification expert;
- “2. A copy of the wild-harvested mushroom identification expert’s certificate of successful completion of the course, containing the date of completion; and
- “3. The quantity of morel mushrooms or oyster mushrooms purchased and the date(s) purchased.

“Furthermore, a consumer advisory shall inform consumers by brochures, deli case or menu advisories, label statements, table tents, placards, or other effective written means that wild-harvested mushrooms should be thoroughly cooked and may cause allergic reactions or other effects.”

ITEM 3. Renumber subrules **31.1(15)** to **31.1(18)** as **31.1(16)** to **31.1(19)**.

ITEM 4. Adopt the following **new** subrule 31.1(15):

**31.1(15)** *Prohibiting animals*. Section 6-501.115, paragraph (B), is amended by adding the following:

“(6) Pet dogs may be allowed on exterior premises of a food establishment, including outdoor patio and outdoor dining areas, provided the food establishment meets all of the following requirements:

“a. A separate entrance is present so that pet dogs do not enter the food establishment to access the outdoor area;

“b. No food preparation is allowed in the outdoor area, including mixing or dispensing drinks and ice;

“c. Customer multi-service or reusable utensils such as plates, silverware, glasses, and bowls are not stored, displayed, or pre-set in the outdoor area;

“d. Food or water provided to pet dogs shall only be in single-use disposable containers provided by the food establishment or a container provided by the pet owner that is filled without any contact between the container and any dispensing item of the food establishment;

“e. Employees are prohibited from direct contact with pet dogs while on duty;

“f. The outdoor area is maintained clean;

“g. In cases where excrement or bodily fluids (urine, saliva, vomit, or the like) are deposited, an employee shall immediately ensure the area is cleaned and sanitized;

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

- “h. The outdoor area shall not be fully enclosed (an enclosed area is considered part of the interior of the facility);
- “i. Disruptive pet dogs must be controlled or removed from the premises;
- “j. Rules governing pet dogs shall be posted at each entrance of the food establishment and shall, at a minimum, contain the following:
- “i. Pet dogs shall be leashed at all times;
  - “ii. Pet dogs shall not enter any interior area of the food establishment at any time;
  - “iii. Pet dogs must be controlled at all times by the dog’s owner or designee;
  - “iv. Pet dogs are not permitted on chairs, tables, benches or seats; and
  - “v. Pet dog owners must immediately notify the food establishment’s staff in the event that excrement or bodily fluids (urine, saliva, vomit, or the like) are deposited.”

ITEM 5. Amend subrule 31.2(9), introductory paragraph, as follows:

**31.2(9) Adoption of Code of Federal Regulations.** The following parts of the Code of Federal Regulations (April 1, ~~2018~~ 2019) are adopted:

[Filed 7/2/20, effective 9/2/20]

[Published 7/29/20]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 7/29/20.

**ARC 5121C**

**UTILITIES DIVISION[199]**

**Adopted and Filed**

**Rule making related to electric lines**

The Utilities Board (Board) hereby rescinds Chapter 11, “Electric Lines,” Iowa Administrative Code, and adopts a new Chapter 11 with the same title.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code chapter 478.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapter 478.

*Purpose and Summary*

The Board conducted a comprehensive review of its Chapter 11 rules, and rather than make extensive amendments, the Board decided to rescind current Chapter 11 and adopt a new chapter with many of the same provisions. In addition, the rules in the new chapter are reorganized and are based upon recent dockets before the Board.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 20, 2019, as **ARC 4776C**. An oral presentation was held on January 14, 2020, at 1 p.m. in the Board Hearing Room, 1375 East Court Avenue, Des Moines, Iowa.

Comments were presented at the oral presentation by electric transmission companies, public utilities, the Iowa Farm Bureau, and other interested persons. The comments addressed notice requirements to landowners and filing requirements for the companies.

Written comments received were very similar to the comments made at the oral presentation. The Board allowed for additional written comments, after the oral presentation, addressing a draft of this

## UTILITIES DIVISION[199](cont'd)

Adopted and Filed rule making. There were only a few additional comments filed addressing the draft, and those repeated earlier comments.

The Board issued an order adopting the new chapter on July 10, 2020. The order is available on the Board's electronic filing system, [efs.iowa.gov](https://efs.iowa.gov), under Docket No. RMU-2019-0011.

The adopted chapter is not identical to the chapter proposed in the Notice of Intended Action. The changes to the chapter are based upon comments made at the oral presentation and written comments. The substantive changes are primarily related to what notice is required to be sent to landowners, and other interested persons, at various stages of the process.

*Adoption of Rule Making*

This rule making was adopted by the Board on July 10, 2020.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to rule 199—1.3(17A,474,476).

*Review by Administrative Rules Review Committee*

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

*Effective Date*

This rule making will become effective on September 2, 2020.

The following rule-making action is adopted:

Rescind 199—Chapter 11 and adopt the following **new** chapter in lieu thereof:

CHAPTER 11  
ELECTRIC LINES

**199—11.1(478) General information.**

**11.1(1) Purpose and authority.** The purpose of this chapter is to implement the requirements in Iowa Code chapter 478 and to establish procedures for electric franchise proceedings before the Iowa utilities board. This chapter shall apply to any person engaged in the construction, operation, and maintenance of electric transmission lines in Iowa.

**11.1(2) Iowa electrical safety code.** Overhead and underground electric line minimum safety requirements to be applied in installation, operation, and maintenance are found in 199—Chapter 25, Iowa electrical safety code.

**11.1(3) Date of filing.** A petition for franchise, and all other filings, shall be considered filed when accepted for filing by the board pursuant to 199—Chapter 14.



## UTILITIES DIVISION[199](cont'd)

**11.1(4) Franchise, when required.** An electric franchise shall be required for the construction, operation, and maintenance of any electric line capable of operating at 69,000 volts (69 kV) or more outside of cities, except that a franchise is not required for electric lines located entirely within the boundaries of property owned by a person engaged in the transmission or distribution of electric power or an end user.

**199—11.2(478) Definitions.** For the administration and interpretation of this chapter, the following words and terms, when used in these rules, shall have the meanings indicated below:

*“Affected person”* means any person with a recorded legal right or interest in the property, including but not limited to a contract purchaser of record, a tenant occupying the property or possessing the property under a recorded lease, a record lienholder, and a record encumbrancer of the property. The term also includes persons in possession of or residing on the property and persons with unrecorded interests in property that have been identified through a good-faith effort of the electric company.

*“Board”* means the utilities board within the utilities division of the department of commerce.

*“Capable of operating”* means the standard voltage rating at which the electric line, wire, or cable can be operated consistent with the level of the insulators and the conductors used in construction of the electric line, wire, or cable based on manufacturer’s specifications, industry practice, and applicable industry standards.

*“Electric company”* means any person that proposes to construct, erect, maintain, or operate an electric line, wire, or cable in Iowa.

*“Person”* means 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).

*“Termini”* means the electrically functional end points of an electric line, without which it could not serve a public use. Examples of termini may include, but are not limited to, generating stations, substations, or switching stations.

*“Transmission line”* means any electric line, wire, or cable capable of operating at 69 kilovolts or more.

**199—11.3(478) Route selection.** The planning for a route that is the subject of a petition for franchise shall begin with routes that are near and parallel to roads, railroad rights-of-way, or division lines of land, according to the government survey, consistent with the provisions of Iowa Code section 478.18(2).

**11.3(1) Where deviations allowed.** Where a route planned near and parallel to roads, railroad rights-of-way, or division lines of land would contain segments making transmission line construction not practicable and reasonable, generally for engineering reasons, route deviation(s) may be proposed and accompanied by a proper evidentiary showing that the initial route or routes examined did not meet practicable and reasonable standards pursuant to Iowa Code section 478.18(2). Deviations based on landowner preference or those that minimize interference with land may be permissible; however, the electric company must demonstrate that route planning began with a route or routes located near and parallel to roads, railroad rights-of-way, or division lines of land.

**11.3(2) Distance from buildings.** No transmission line shall be constructed outside of cities, except by agreement, within 100 feet of any dwelling, house or other building, except where the transmission line crosses or passes along a public highway or is located alongside or parallel with the right-of-way of any railroad company, consistent with the provisions of Iowa Code section 478.20. Construction of a new building within 100 feet of an existing transmission line shall be construed as “agreement” within the meaning of Iowa Code section 478.20.

**11.3(3) Railroad crossings.** Where these rules call for the consent or other showing of right from a railroad for a railroad crossing, an affidavit filed by an electric company which states that proper application for approval of the railroad crossing has been made, that a one-time crossing fee has been paid as provided for in rule 199—42.3(476), and that 35 days have passed since mailing of the application and payment with no claim of special circumstance or objection from the railroad will be accepted as a showing of consent for the crossing.

## UTILITIES DIVISION[199](cont'd)

**199—11.4(478) Informational meetings.** Not less than 30 days or more than two years prior to filing a petition or related petitions requesting a franchise for a new transmission line with one or more miles of the total proposed route across privately owned real estate, the electric company shall hold an informational meeting in each county in which real property or real property rights will be affected. An informational meeting is required to be held in each county where property rights will be affected regardless of the length of the portion of the proposed transmission line in a county. The length of easements required for conductor and crossarm overhang of private property, even if no supporting structures are located on that property, shall be included in determining whether an informational meeting is required pursuant to Iowa Code section 478.2.

**11.4(1) Facilities.** Electric companies filing a petition for franchise shall be responsible for all negotiations and compensation for a suitable facility to be used for each informational meeting, including but not limited to a building or facility which is in substantial compliance with any applicable requirements of the Americans with Disabilities Act (ADA) Standards for Accessible Design, including both Title III regulations at 28 CFR Part 36, Subpart D, and the 2004 ADA Accessibility Guidelines (ADAAG) at 36 CFR Part 1191, Appendices B and D (as amended through September 2, 2020), where such a building or facility is reasonably available.

**11.4(2) Location.** The informational meeting location shall be reasonably accessible to all persons who may be affected by the granting of a franchise in that county or who have an interest in the proposed transmission line.

**11.4(3) Personnel.** At the informational meeting, qualified personnel representing the electric company shall make a presentation that includes the following information:

- a. Utility service requirements and planning which have resulted in the proposed construction.
- b. When the transmission line will be constructed.
- c. In general terms, the physical construction, appearance and typical location of poles and conductors with respect to property lines.
- d. In general terms, the rights which the electric company shall seek to acquire by easements.
- e. Procedures to be followed in contacting affected persons with whom the electric company may seek specific negotiations in acquiring voluntary easements.
- f. Methods and factors used in arriving at an offered price for voluntary easements including the range of cash amount of each component. An example of an offer sheet shall be included as part of the presentation.
- g. The manner in which voluntary easement payments are made, including discussion of conditional easements, signing fees, and time of payment.
- h. Other factors or damages which are not included in the easement but for which compensation is made, including features of interest to affected persons but not limited to computation of amounts and manner of payment.
- i. If the undertaking is a joint effort by more than one electric company, all of the electric companies involved in the project shall be represented at the informational meeting by qualified personnel able to speak on the matters required by this subrule.

**11.4(4) Board approval.** An electric company proposing to schedule an informational meeting shall file a request with the board to schedule the informational meeting and shall include a proposed date and time for the informational meeting, an alternate date and time, and a general description of the proposed project and route. The board shall notify the electric company within ten days from the filing of the request whether the request is approved or alternate dates and times are required. Not less than 30 days prior to the informational meeting, the electric company shall file with the board the location of the informational meeting and a map of the proposed route that includes the notification corridor. Once a date and time for the informational meeting have been approved and not less than 14 days prior to the informational meeting, the electric company shall file a copy of the informational meeting presentation with the board.

**11.4(5) Notice of informational meeting.** Notice of each informational meeting shall be provided by certified mail, return receipt requested, to those persons listed on the tax assessment rolls as responsible for payment of real estate taxes on the property and persons in possession of or residing on the property

## UTILITIES DIVISION[199](cont'd)

within the notification corridor where the proposed transmission line will be located. The notification corridor includes any property over which the electric company may seek easements. Not less than 30 days prior to the date of the informational meeting, a copy of the notice shall be filed with the board and the notice shall be deposited in the U.S. mail by the electric company.

*a.* The notice shall include the following:

- (1) The name of the electric company;
- (2) The electric company's principal place of business;
- (3) The general description and purpose of the proposed project;
- (4) The general nature of the right-of-way desired;
- (5) The possibility that the right-of-way may be acquired by condemnation if approved by the board;
- (6) A map showing the route of the proposed project and the notification corridor;
- (7) A description of the process used by the board in making a decision on whether to approve a franchise, including the right to take property by eminent domain;
- (8) A statement that affected persons have a right to be present at the informational meeting and to file objections with the board;
- (9) Designation of the time and place of the meeting;
- (10) The following statement: Persons with disabilities requiring assistive services or devices to observe or participate should contact the Utilities Board at (515)725-7300 in advance of the scheduled date to request accommodations; and
- (11) A copy of the statement of damages as described in subrule 11.9(5).

*b.* The electric company shall cause the meeting notice, including the map, to be published once in a newspaper of general circulation in each county where the proposed line is to be located. The notice shall be published at least one week and not more than three weeks prior to the date of the meeting. Publication shall be considered notice to landowners and persons in possession of or residing on the property whose addresses are not known.

*c.* The electric company shall file prior to the informational meeting an affidavit that describes the good-faith effort the electric company undertook to locate the addresses of persons listed on the tax assessment rolls as responsible for payment of real estate taxes imposed on the property within the notification corridor where the proposed transmission line is to be located and those persons in possession of or residing on the property. The affidavit shall be signed by an officer of the electric company.

**199—11.5(478) Petition for a new franchise.** A single docket will be assigned to a proposed transmission line even if the transmission line will be located in more than one county. The electric company may request one franchise for the entire transmission line or may request separate franchises in each county where the proposed transmission line is to be located.

**11.5(1) *Petition and exhibits.*** A petition for a new franchise shall be filed on forms prescribed by the board, shall be notarized, and shall have all required exhibits attached. Exhibits in addition to those required by this rule may be attached when appropriate. The petition shall be attested to by an officer, official, or attorney with authority to represent the electric company. The following exhibits shall be filed with the petition:

*a. Exhibit A.* A legal description of the route. The description shall include the name of the county, the maximum and nominal voltages, the beginning point and endpoint of the transmission line, and whether the route is on public, private, or railroad right-of-way. In the case of multicounty projects, the description shall identify all counties involved in the total project and the termini located in other counties. When the route is in or adjacent to the right-of-way of a named road or a railroad, the exhibit shall specifically identify the road or railroad by name.

*b. Exhibit B.*

(1) A map showing the route of the transmission line drawn with reasonable accuracy considering the scale. The map may be to any scale appropriate for the level of detail to be shown but may not be smaller than one inch to the mile and shall be legible when printed on paper no larger than 11 by 17 inches. The following minimum information shall be provided:

## UTILITIES DIVISION[199](cont'd)

1. The route of the transmission line which is the subject of the petition, including beginning point and endpoint and, when the transmission line is parallel to a road or railroad, which side the line is on. Line sections with multiple-circuit construction or underbuild shall be designated. The voltage at which other circuits are operated and ownership of other circuits or underbuild shall be indicated.

2. The name of the county, county and section lines, section numbers, and township and range numbers.

3. The location and identity of roads, named streams and bodies of water, and any other pertinent natural or man-made features or landmarks influencing the route.

4. The names and corporate limits of cities.

5. The names and boundaries of any public lands or parks, recreational areas, preserves or wildlife refuges.

6. All electric lines, including lines owned by the electric company, within six-tenths of a mile of the route, including the voltage at which the lines are operated, whether the lines are overhead or buried, and the names and addresses of the owners. Any electric lines to be removed or relocated shall be designated.

7. The location of railroad rights-of-way, including the names and addresses of the owners.

8. The location of airports or landing strips within one mile of the route, along with the names and addresses of the owners.

9. The location of pipelines used for the transportation of any solid, liquid, or gaseous substance, except water, within six-tenths of a mile of the route, along with the names and addresses of the owners.

10. The names and addresses of the owners of telephone, communication, or cable television lines within six-tenths of a mile of the route. The location of these lines need not be shown.

11. The names and addresses of the owners of rural water districts organized pursuant to Iowa Code chapter 357A that have facilities within six-tenths of a mile of the route. The location of these facilities need not be shown.

(2) A map of the entire route to be franchised if the route is located in more than one county or there is more than one map for a county.

*c. Exhibit C.* Technical information and engineering specifications describing typical materials, equipment and assembly methods as specified on forms provided by the board.

*d. Exhibit D.* The exhibit shall consist of a written text containing the following:

(1) An affidavit with an allegation and supporting information that the transmission line is necessary to serve a public use and represents a reasonable relationship to an overall plan of transmitting electricity in the public interest. Additional substantiated allegations as may be required by Iowa Code section 478.3(2) shall also be included.

(2) If the route or any portion thereof is not near and parallel to roads or railroad rights-of-way, or along division lines of the lands, according to government surveys, an explanation of why such parallel routing is not practicable or reasonable.

(3) A statement regarding the availability of routes on an existing electric line right-of-way and an explanation of why this route was not selected.

(4) Any other information or explanation in support of the petition.

(5) If a new franchise must be sought for an existing transmission line, historical information regarding the prior franchise.

(6) A copy of the route study, if any, which was performed in determining the location of the proposed transmission line.

(7) The status of any other authorizations the electric company is required to obtain to construct the proposed transmission line.

*e. Exhibit E.* This exhibit is required only if the petition requests the right of eminent domain. This exhibit shall be in its final form prior to issuance of the official notice by the board and approval of the eminent domain notice required by Iowa Code section 478.6(2). The exhibit shall consist of a map of the route showing the location of each property for which the right of eminent domain is sought, and for each property:

(1) The legal description of the property.

## UTILITIES DIVISION[199](cont'd)

- (2) The legal description of the desired easement.
- (3) A specific description of the easement rights being sought.
- (4) The names and addresses of all affected persons.
- (5) A map drawn to an appropriate scale showing the boundaries of the property, the boundaries and dimensions of the proposed easement, the location of all electric lines and supports within the proposed easement, the location of and distance to any building within 100 feet of the proposed transmission line, and any other features pertinent to the location of the transmission line, the supporting structures, or to the rights being sought.

(6) An affidavit affirming and describing the good-faith effort undertaken and the review of land records performed to identify all affected persons for all parcels over which the electric company is seeking eminent domain. The affidavit shall be signed by an attorney representing the electric company.

*f. Exhibit F.* The showing of notice to all persons identified in subparagraphs 11.5(1)“b”(6) through 11.5(1)“b”(11) and to the Iowa department of transportation. One copy of each letter of notification or one copy of the letter accompanied by a written statement listing all persons that were sent the notice, the date of mailing, and a copy of the map sent with the letters shall accompany the petition when it is filed with the board.

*g. Exhibit G.* The affidavit required by Iowa Code section 478.3(2)“c” on the holding of an informational meeting. Copies of the mailed notice letter and the published notice(s) of each informational meeting shall be attached to the affidavit. This exhibit is required only if an informational meeting was conducted.

*h. Exhibit H.* This exhibit is required only if the petition requests separate pole lines. This exhibit shall contain a request describing in detail the good cause for the board to authorize the construction of separate pole lines.

*i. Other exhibits.* The board may require filing of additional exhibits if further information on a particular project is deemed necessary.

**11.5(2) Notice of franchise petition.**

*a.* Whenever a petition for a new franchise is filed with the board, the board shall prepare a notice addressed to the citizens of each county through which the transmission line or lines extend. The electric company shall cause this notice to be published in a newspaper of general circulation in each county for two consecutive weeks. Proof of publication shall be filed with the board. This published notice shall constitute sufficient notice to all persons of the proceeding, except owners of record and persons in possession of land to be crossed for which voluntary easements have not been obtained at the time of the first publication of the notice.

*b.* The electric company shall, in addition to publishing notice, serve notice in writing of the filing of the petition on the affected persons over which easements have not been obtained. The served notices shall be by ordinary mail, addressed to the last-known address, mailed not later than the first day of publication of the official notice. One copy of each letter of notification, or one copy of the letter accompanied by a written statement listing all persons to which it was mailed and the date of mailing, shall be filed with the board not later than five days after the date of second publication of the official notice. The electric company shall file a statement describing the action taken to ensure that the company has identified the names and addresses of all affected persons over which voluntary easements have not been obtained.

*c.* Published notices of petitions for franchise shall include provisions whereby interested persons can examine a map of the route. When the petition is filed, the electric company shall state whether a map is to be published with the notice or whether the notice is to include a telephone number and an address through which persons may request a map from the electric company at no cost. The map required by this paragraph need not be as detailed as the Exhibit B map but shall include at minimum the proposed route, section lines, section and township numbers, roads and railroads, city boundaries, and rivers and named bodies of water. A copy of this map shall be filed with the petition.

**11.5(3) Notice to other persons.** The electric company shall give written notice, by ordinary mail, mailed at the time the petition is filed with the board and accompanied by a map showing the route of the proposed electric transmission line, to the persons identified in subparagraphs 11.5(1)“b”(6) through

## UTILITIES DIVISION[199](cont'd)

11.5(1) “b”(11) and to the Iowa department of transportation. One copy of each letter of notification or one copy of the letter accompanied by a written statement listing all persons that were sent the notice, the date of mailing, and a copy of the map sent with the letters shall accompany the petition when it is filed with the board.

**11.5(4) Eminent domain notice.** If an electric company is requesting the right of eminent domain over property as part of a petition for a new franchise, notice shall be provided pursuant to subrule 11.10(1).

**199—11.6(478) Petition for an amendment to a franchise.** A petition for an amendment of a franchise shall include the same exhibits and information required for a new franchise as described in rule 199—11.5(478). Prior to the filing of any petition for an amendment to a franchise where an electric company must obtain new or additional interests in real property for a total of one route mile or more, informational meetings shall be held which meet the requirements of 199—11.4(478).

**11.6(1)** When a petition for amendment is required. A petition for amendment of a franchise shall be filed with the board for approval when the electric company is:

*a.* Increasing the operating voltage of any electric line, the level to which it is capable of operating, or to a voltage greater than that specified in the existing franchise.

*b.* Constructing an additional circuit which is capable of operating at a nominal voltage of 69 kV or more on a previously franchised line, where an additional circuit at such voltage is not authorized by the existing franchise.

*c.* Relocating a franchised line to a route different from that authorized by an existing franchise which requires that new or additional interests in property be obtained, or that new or additional authorization be obtained from highway or railroad authorities, for a total distance of one route mile or more, or for any relocations where the right of eminent domain is sought. An amendment is not required for relocations made pursuant to Iowa Code section 318.9(2).

**11.6(2)** When a new transmission line is proposed in a county where the electric company has a countywide franchise for all of the electric company’s transmission lines in a county, the new transmission line will be included in the countywide franchise as an amendment to the countywide franchise.

**11.6(3)** When an existing franchise in a county is proposed to be combined with another existing franchise in a county, a petition for an amendment of the franchise with the latest expiration date shall be filed to combine the transmission lines into one of the existing franchises.

**11.6(4)** An amendment to a franchise shall not be required for a voltage increase, additional circuit, or electric line relocation where such activity takes place entirely within the boundaries of property owned by an electric company or an end user.

**11.6(5)** Notice of a petition for franchise amendment. Notice of a petition for an amendment to a franchise shall be the same notice that is required for a petition for a new franchise as described in rule 199—11.5(478).

**11.6(6)** Eminent domain notice. If an electric company is requesting the right of eminent domain over property as part of a petition for amendment of a franchise, notice shall be provided pursuant to subrule 11.10(1).

**199—11.7(478) Petition for the abbreviated franchise process.**

**11.7(1) Eligibility for abbreviated franchise process.** Petitions for an electric franchise or an amendment to a franchise may be filed pursuant to the abbreviated franchise process set forth in Iowa Code section 478.1(5) if the following requirements are met:

*a.* The project consists of the conversion, upgrading, or reconstruction of an existing electric line operating at 34.5 kV to a line capable of operating at 69 kV.

*b.* The project will be on substantially the same right-of-way as an existing 34.5 kV line. For purposes of this subrule, “substantially the same right-of-way” means that the new or additional interests in private property right-of-way will be required for less than one mile of the proposed project length. Easements required for conductor and crossarm overhang of private property or for

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anchor easements shall not be considered when determining the length of additional interests in private property right-of-way.

c. The project will have substantially the same effect on the underlying properties as the existing 34.5 kV line.

d. The completed transmission line will comply with the Iowa electrical safety code found in 199—Chapter 25.

e. The electric company does not request the power of eminent domain.

f. The electric company agrees to pay all costs and expenses of the franchise proceeding.

**11.7(2) *Petition using abbreviated process.*** A petition for a new franchise or an amendment to a franchise filed pursuant to the abbreviated franchise process set forth in Iowa Code section 478.1(5) shall be made on forms prescribed by the board, shall be notarized, and shall have all required exhibits attached. Exhibits in addition to those required by this subrule may be attached when appropriate. The exhibits required to be attached are as follows:

a. *Exhibit A.* A legal description of the route. The description shall include the name of the county, the maximum and nominal voltages, the beginning point and endpoint of the transmission line, and whether the route is on public, private, or railroad right-of-way. When the route is in or adjacent to the right-of-way of a named road or a railroad, the exhibit shall specifically identify the road or railroad by name. The description shall identify any termini located in other counties.

b. *Exhibit B.* A map showing the route of the transmission line drawn with reasonable accuracy considering the scale. The map may be to any scale appropriate for the level of detail to be shown but may not be smaller than one inch to the mile and must be legible when printed on paper no larger than 11 by 17 inches. The following minimum information shall be provided:

(1) The route of the transmission line which is the subject of the petition, including the beginning point and endpoint and, when the transmission line is parallel to a road or railroad, the side on which the line is located. Line sections with multiple-circuit construction or underbuild shall be designated. The voltage at which other circuits are operated and ownership of other circuits or underbuild shall be indicated.

(2) The name of the county, county and section lines, section numbers, and township and range numbers.

(3) The location and identity of roads, railroads, named streams and bodies of water, and any other pertinent natural or man-made features or landmarks influencing the route.

(4) The names and corporate limits of cities.

(5) If any deviation from the existing route is proposed, the original and proposed routes shall be shown and identified.

c. *Exhibit C.* Technical information and engineering specifications describing typical materials, equipment, and assembly methods as specified on forms provided by the board.

d. *Exhibit D.* The exhibit shall consist of written text containing the following:

(1) A listing of any existing franchises that would be terminated or amended in whole or in part by this petition, including the docket number, franchise number, date of issue, county of location, and to whom the franchise is granted.

(2) An allegation, with supporting testimony, that the project is eligible for the abbreviated franchise process.

(3) An allegation, with supporting testimony, that the project is necessary to serve a public use and represents a reasonable relationship to an overall plan of transmitting electricity in the public interest.

(4) An explanation for any deviations from the existing transmission line route.

(5) A statement regarding the availability of routes on an existing electric line right-of-way and an explanation of why this route was not selected.

e. *Exhibit E.* A statement that the right of eminent domain is not being requested.

f. *Exhibit F.* The exhibit shall consist of a showing of notice to other electric, pipeline, telephone, communication, cable television, rural water district, and railroad companies that have facilities which are crossed by or in shared right-of-way with the proposed transmission line.

## UTILITIES DIVISION[199](cont'd)

*g. Exhibit G.* The exhibit shall consist of the form of notice to be mailed in accordance with subrule 11.7(3) to owners of and persons in possession of or residing on property where construction shall occur.

*h. Exhibit H.* This exhibit is required if the petition requests separate pole lines. This exhibit shall contain a request describing in detail the good cause for the board to authorize the construction of separate pole lines.

**11.7(3) Notice of franchise or amendment to franchise under abbreviated franchise process.**

*a.* One month prior to commencement of construction, an electric company shall provide written notice concerning the anticipated construction to the last-known address of the owners of record of the property where construction will occur and to persons in possession of or residing on such property. Notices may be served by ordinary mail, addressed to the last-known address of the owners of record of the property and to persons residing on such property. The electric company shall make a good-faith effort to identify and notify all owners of record and persons residing on the property.

*b.* The notice shall include the following information:

(1) A description of the purpose of the project and the nature of the work to be performed.

(2) A copy of the Exhibit B map.

(3) The estimated dates the construction or reconstruction will commence and end.

(4) The name, address, telephone number, and email address of a representative of the electric company who can respond to inquiries concerning the anticipated construction.

*c.* For the purposes of this rule, “construction” means physical entry onto private property by personnel or equipment for the purpose of rebuilding or reconstructing the transmission line.

**199—11.8(478) Petition for extension of franchise.**

**11.8(1) Petition and exhibits.** A petition for an extension of a franchise shall be made on forms prescribed by the board; shall be attested to by an officer, official, or attorney with authority to represent the electric company; and shall have all required exhibits attached. Exhibits in addition to those required by this rule may be attached when appropriate. For a transmission line that extends into more than one county, the electric company may file a petition to combine the separate county franchises into one franchise for the entire transmission line.

*a. Exhibit A.* A legal description of the route. The description shall include the name of the county, the maximum and nominal voltages, the beginning point and endpoint of the transmission line, and whether the route is on public, private, or railroad right-of-way. When the route is in or adjacent to the right-of-way of a named road or a railroad, the exhibit shall specifically identify the road or railroad by name. The description shall identify any termini located in other counties.

*b. Exhibit B.* A map showing the route of the transmission line drawn with reasonable accuracy considering the scale. The map may be to any scale appropriate for the level of detail to be shown but may not be smaller than one inch to the mile and must be legible when printed on paper no larger than 11 by 17 inches. The following minimum information shall be provided:

(1) The route of the transmission line which is the subject of the petition, including beginning point and endpoint and, when the transmission line is parallel to a road or railroad, which side the line is on. Line sections with multiple-circuit construction or underbuild shall be designated. The voltage at which other circuits are operated and ownership of other circuits or underbuild shall be indicated.

(2) The name of the county, county and section lines, section numbers, and township and range numbers.

(3) The location and identity of roads, railroads, named streams and bodies of water, and any other pertinent natural or man-made features or landmarks influencing the route.

(4) The names and corporate limits of cities.

*c. Exhibit C.* Technical information and engineering specifications describing typical materials, equipment and assembly methods as specified on forms provided by the board.

*d. Exhibit D.* The exhibit shall consist of a written text containing the following:

(1) A listing of all existing franchises for which extension in whole or in part is sought, including the docket number, franchise number, date of issue, county of location, and to whom granted.



## UTILITIES DIVISION[199](cont'd)

(2) A listing of all amendments to the franchises listed in subparagraph 11.8(1)“d”(1), including the docket number, amendment number, date of issue, and purpose of the amendment.

(3) A description of any substantial rebuilds, reconstructions, alterations, relocations, or changes in operation not included in a prior franchise or amendment proceeding.

(4) A description of any changes in ownership or operating and maintenance responsibility.

(5) An allegation, with supporting testimony, that the transmission line remains necessary to serve a public use and represents a reasonable relationship to an overall plan of transmitting electricity in the public interest.

(6) Any other information or explanation in support of the petition.

**11.8(2) *Date for filing petition for extension.*** A petition for an extension of a franchise shall be filed at least one year prior to expiration of the franchise. This requirement is not applicable to extensions of franchises that expire within one year of September 2, 2020. Extensions of existing countywide franchises are permitted; however, petitions to extend the franchises of separate transmission lines within a county by combining those transmission lines into a countywide franchise are not permitted using the franchise extension process.

**11.8(3) *When petition for extension unnecessary.*** An extension of franchise is unnecessary for an electric line which is capable of operating at 69 kV or more when the electric line has been permanently retired from operation and the board has been notified of the retirement. The notice to the board shall include the franchise number and issue date, the docket number, and, if the entire franchised line is not retired, a map showing the location of the portion retired.

**11.8(4) *Petition for extension of countywide franchise.*** A petition for an extension of a countywide franchise shall include all of the franchised lines owned by the electric company and within one county and a statement of whether the published notice will contain a legal description of the route or will include a telephone number and an address through which persons may request a map from the electric company at no cost. The map shall comply with the requirements in subrule 11.8(6). A copy of this map shall be filed with the petition.

**11.8(5) *Notice of petition for extension.*** Whenever a petition for an extension of a franchise is filed with the board, the board shall prepare a notice addressed to the citizens of each county through which the transmission line or lines extend. The electric company shall cause this notice to be published for two consecutive weeks in a newspaper of general circulation in each county where the proposed line is to be located. Proof of publication shall be filed with the board. This published notice shall constitute sufficient notice to all affected persons where the existing line is located.

**11.8(6) *Maps in published notice.*** Published notices of petitions for franchise shall include provisions whereby interested persons can examine a map of the route. When the petition is filed, the electric company shall state whether a map is to be published with the notice or whether the notice is to include a telephone number and an address through which persons may request a map from the electric company at no cost. The map required by this subrule need not be as detailed as the Exhibit B map but shall include at minimum the proposed route, section lines, section and township numbers, roads and railroads, city boundaries, and rivers and named bodies of water. A copy of this map shall be filed with the petition.

**11.8(7) *Notice to other persons.*** The electric company shall give written notice, by ordinary mail, mailed at the time the petition is filed with the board, accompanied by a map showing the route of the proposed transmission line, to the persons identified in subparagraphs 11.5(1)“b”(6) through 11.5(1)“b”(11) and to the Iowa department of transportation. One copy of each letter of notification or one copy of the letter accompanied by a written statement listing all persons that were sent the notice, the date of mailing, and a copy of the map sent with the letters shall accompany the petition when it is filed with the board.

**199—11.9(478) Additional requirements.**

**11.9(1) *Forms.*** An electric company shall use the appropriate form or forms available on the board’s website when filing a petition, an amendment to an existing franchise, or an extension of an existing franchise. All filings shall be filed electronically in compliance with the board’s electronic filing system

## UTILITIES DIVISION[199](cont'd)

requirements in 199—Chapter 14 and shall be considered filed when accepted for filing into the board's electronic filing system pursuant to 199—Chapter 14.

**11.9(2) *Temporary construction permits.*** An electric company may request a temporary construction permit, as allowed by Iowa Code section 478.31, on the board's petition for franchise forms.

**11.9(3) *Segmental ownership.***

*a.* Petitions covering transmission line routes having segments of the total transmission line with different owners shall establish that the entire transmission line is necessary to serve a public use and represents a reasonable relationship to an overall plan of transmitting electricity in the public interest.

*b.* Petitions covering transmission line routes having segments of the total transmission line with different owners shall include documentation showing that the different owners have agreed to the construction being proposed in the petition.

**11.9(4) *Compliance with Iowa electrical safety code.*** If review of Exhibit C, or inspection of an existing electric line which is the subject of a franchise petition, finds noncompliance with 199—Chapter 25, the Iowa electrical safety code, no final action shall be taken by the board on the petition without a satisfactory showing by the electric company that the areas of noncompliance have been or will be corrected. Any disputed safety code compliance issues will be resolved by the board.

**11.9(5) *Statement of damage claims.***

*a.* A petition proposing transmission line construction shall not be acted upon by the board if the electric company does not file with the board a written statement as to how damages resulting from the construction of the transmission line shall be determined and paid.

*b.* The statement shall contain the following information: the type of damages which will be compensated for, how the amount of damages will be determined, the procedures by which disputes may be resolved, the manner of payment, and the procedures that the affected persons are required to follow to obtain a determination of damages.

*c.* The statement shall be amended as necessary to reflect changes in the law, company policy, or the needs of a specific project.

*d.* A copy of this statement shall be mailed with the notice of informational meeting as provided for in Iowa Code section 478.2(3). Where no informational meeting is required, a copy shall be provided to each affected person prior to entering into negotiations for payment of damages.

*e.* Nothing in this rule shall prevent a person from negotiating with the electric company for terms which are different from, more specific than, or in addition to those in the statement filed with the board.

**199—11.10(478) Notices.**

**11.10(1) *Notice of eminent domain proceedings.*** If a petition for a franchise or amendment of franchise seeks the right of eminent domain, the electric company shall, in addition to publishing a notice of hearing, serve the written notice required by Iowa Code section 478.6(2) on the landowners and any affected person for all parcels over which eminent domain is sought. The eminent domain notice shall be filed with the board for approval. Service shall be by certified U.S. mail, return receipt requested, and addressed to the person's last-known address. This notice shall be mailed no later than the first day of publication of the official notice of hearing concerning the petition.

*a.* The notice of eminent domain proceedings shall include the following:

(1) A copy of the Exhibit E filed with the board for the affected property.

(2) The proposed route of the electric transmission line.

(3) The eminent domain rights being sought over the property.

(4) The date, time and location of the hearing and a description of the hearing procedures. The description of the hearing procedures shall include the website address for the board's electronic filing system and contact information of the board's customer service section.

(5) The statement of individual rights required pursuant to Iowa Code section 6B.2A(1).

*b.* Not less than five days prior to the date of hearing, the electric company shall file with the board the return receipt for the certified notice.

**11.10(2) *Notice of franchised line construction.***

## UTILITIES DIVISION[199](cont'd)

*a.* Within 90 days after completion of a transmission line construction or reconstruction project authorized by a franchise or amendment to franchise, the holder of the franchise shall notify the board in writing of the completion. The notice shall include the franchise and docket numbers and the date the franchise was issued.

*b.* If the project is not completed within two years after the date of issuance of the franchise or amendment to franchise, the electric company shall file a progress report regarding construction of the transmission line.

*c.* If construction of the transmission line authorized by a franchise has not commenced within two years of the date the franchise is granted, or within two years after final disposition of judicial review of a franchise order or of condemnation proceedings, the franchise shall be forfeited unless the electric company petitions the board for an extension of time to commence construction. The board may grant the extension if good cause is shown for the failure to commence construction.

**11.10(3)** *Notice of transfer or assignment of franchise.* The holder of a franchise shall notify the board in writing, when transferring any franchise or portion of a franchise, stating the applicable franchise number and docket number which are affected and a description of the route of the transmission line when less than the total franchised line is affected, together with the name of the transferee and date of transfer, not more than 30 days after the effective date of the transfer.

**11.10(4)** *Notice of relocations not requiring an amendment to franchise.* Whenever a transmission line under franchise is relocated in a manner that does not require an amendment to franchise, the holder of the franchise shall notify the board in writing of the relocation, stating the franchise and docket numbers and date of franchise issuance for the affected transmission line, and providing revised Exhibits A and B that reflect the changes in the route, not more than 30 days after the commencement of the relocation.

**11.10(5)** *Notice of transmission line reconstruction not requiring an amendment to franchise.* Whenever a transmission line is reconstructed with different materials or specifications than those that appear on the most recent Exhibit C and an amendment to franchise is not required, the holder of the franchise shall notify the board in writing of the reconstruction, stating the franchise and docket numbers and date of franchise issuance for the affected transmission line, and providing a revised Exhibit C that reflects the changes in the manner of construction, not more than 30 days after the commencement of the reconstruction.

**199—11.11(478) Common and joint use.**

**11.11(1)** *Common use construction.* Whenever an overhead electric line capable of operating at 69 kV or more is built or rebuilt on public road rights-of-way located outside of cities, all parallel overhead electric supply circuits on the same road right-of-way shall be attached to the same or common line of structures unless the board authorizes, for good cause shown, the construction of separate pole lines.

**11.11(2)** *Relocating lines.* When a transmission line is to be constructed in a location occupied by an electric line or a communication line, the expense of relocating the existing line shall be borne by the electric company proposing the new transmission line. The electric company proposing the new transmission line shall not be required to pay any part of the used life of the existing line, but shall pay only the nonbetterment expense of relocating the existing line.

**199—11.12(478) Termination of franchise petition proceedings.**

**11.12(1)** *Termination of docket.* Upon notice to the board by an electric company that a franchise petition or petition for amendment of a franchise is withdrawn, the docket shall be closed by board order.

**11.12(2)** *Failure to respond.* If an electric company fails to respond to written notification by the board, to correct an incomplete or deficient franchise petition, or to publish the official notice after the form of notice is provided by the board, the board may dismiss the petition as abandoned. If dismissal would cause an existing transmission line to be without a franchise, the board may also pursue imposition of civil penalties.

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**199—11.13(478) Fees and expenses.** The electric company shall pay the actual cost incurred by the board attributable to the processing, investigation, and inspection related to a petition requesting an electric franchise, an amendment to an electric franchise, or an extension of an electric franchise.

These rules are intended to implement Iowa Code chapter 478.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/29/20.

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

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

AGENCY	RULE	RESCISSION
Revenue Department[701]	54.2(3)“i”; 59.28(2)“p”	Pursuant to <u>2020 Iowa Acts, House File 2641, section 79</u> , effective June 29, 2020.
Revenue Department[701]	18.34(1)“b”(1); 18.45(1), definition of “computer”; 18.58(1), definition of “computer”; 230.14(2)“a”	Pursuant to <u>2020 Iowa Acts, House File 2641, section 97</u> , effective July 1, 2020.