

# IOWA ADMINISTRATIVE BULLETIN

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## PREFACE

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

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

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

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

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## CITATION of Administrative Rules

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

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

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

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

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

## Schedule for Rule Making 2019

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

### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
6	Wednesday, August 21, 2019	September 11, 2019
7	Friday, September 6, 2019	September 25, 2019
8	Friday, September 20, 2019	October 9, 2019

**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\*\***

**CIVIL RIGHTS COMMISSION[161]**

Assistance animal as reasonable accommodation in housing—form, ch 9 appendix A IAB 7/17/19 <b>ARC 4551C</b>	Room B100 Grimes State Office Bldg. Des Moines, Iowa	September 13, 2019 12:30 to 1:30 p.m.
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**EDUCATIONAL EXAMINERS BOARD[282]**

Timeline for required reporting of misconduct to the board, 11.37 IAB 7/31/19 <b>ARC 4560C</b>	Room 3 Southwest Grimes State Office Bldg. Des Moines, Iowa	August 21, 2019 1 p.m.
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**LABOR SERVICES DIVISION[875]**

Boilers and pressure vessels—inspections, incident reporting, 90.7(3), 90.11(3)“c” IAB 7/31/19 <b>ARC 4564C</b>	150 Des Moines St. Des Moines, Iowa	August 20, 2019 9 a.m. (If requested)
Inspectors of boilers and pressure vessels, 90.9 IAB 7/31/19 <b>ARC 4565C</b>	150 Des Moines St. Des Moines, Iowa	August 20, 2019 9 a.m. (If requested)

**NURSING BOARD[655]**

Prohibited grounds for discipline—default or delinquency on student loan debt or service obligation, 4.9 IAB 8/14/19 <b>ARC 4597C</b>	Board Office, Suite B 400 S.W. 8th St. Des Moines, Iowa	September 13, 2019 9 to 10 a.m.
Nonpayment of student loan debt, amendments to ch 17 IAB 8/14/19 <b>ARC 4598C</b>	Board Office, Suite B 400 S.W. 8th St. Des Moines, Iowa	September 13, 2019 9 to 10 a.m.
Reciprocity—expedited licensure for spouse of active duty member of military forces, amendments to ch 18 IAB 8/14/19 <b>ARC 4599C</b>	Board Office, Suite B 400 S.W. 8th St. Des Moines, Iowa	September 13, 2019 9 to 10 a.m.

**PROFESSIONAL LICENSURE DIVISION[645]**

Physical therapists and physical therapist assistants—licensure, examinations, 200.2, 200.4 IAB 7/31/19 <b>ARC 4569C</b>	Fifth Floor Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	August 21, 2019 8 to 8:30 a.m.
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**REAL ESTATE APPRAISER EXAMINING BOARD[193F]**

Certification—qualifying experience, demonstration appraisals, supervision of associates or trainees, 1.20(2), 5.6(2), 6.6(2) 15.3(1) IAB 7/31/19 <b>ARC 4567C</b>	Small Conference Room, Third Floor 200 E. Grand Ave. Des Moines, Iowa	August 20, 2019 8:30 to 9:30 a.m.
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**REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)**

Prohibition of discipline for student loan nonrepayment; military service credit and reciprocity; impaired licensee review committee; social security numbers and proof of legal presence; vendor appeals, amend ch 21; adopt chs 25 to 29 IAB 7/31/19 <b>ARC 4566C</b>	Small Conference Room, Third Floor 200 E. Grand Ave. Des Moines, Iowa	August 20, 2019 9:30 to 10:30 a.m.
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**SCHOOL BUDGET REVIEW COMMITTEE[289]**

School district requests for modified supplemental amount; hearing procedures, 1.4(1), 4.6, 6.1, 6.3 IAB 8/14/19 <b>ARC 4604C</b>	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	September 3, 2019 10 to 11 a.m.
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**UTILITIES DIVISION[199]**

Practice and procedure before the board, amendments to ch 7 IAB 7/17/19 <b>ARC 4537C</b>	Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa	August 20, 2019 2 to 4 p.m.
Water, sanitary sewage, and storm water drainage utilities, amendments to ch 21 IAB 7/17/19 <b>ARC 4536C</b>	Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa	August 20, 2019 11:30 a.m. to 1 p.m.

The following list will be updated as changes occur.

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

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

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

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ARC 4588C

**COLLEGE STUDENT AID COMMISSION[283]****Notice of Intended Action****Proposing rule making related to all Iowa opportunity scholarships and providing an opportunity for public comment**

The College Student Aid Commission hereby proposes to amend Chapter 8, “All Iowa Opportunity Scholarship Program,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 261.3.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapter 261.

*Purpose and Summary*

This proposed rule making implements amendments enacted in 2019 Iowa Acts, Senate File 246. Senate File 246 strikes age thresholds that restrict eligibility for two student populations, thus ensuring that all applicants are held to similar general eligibility criteria.

*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, pursuant to 283—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 Commission no later than 4:30 p.m. on September 3, 2019. Comments should be directed to:

Karen Misjak  
Executive Director  
Iowa College Student Aid Commission  
475 S.W. Fifth Street, Suite D  
Des Moines, Iowa 50309-4608  
Phone: 515.725.3410  
Fax: 515.725.3401  
Email: [karen.misjak@iowa.gov](mailto:karen.misjak@iowa.gov) or administrative rules website at [rules.iowa.gov](http://rules.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

## COLLEGE STUDENT AID COMMISSION[283](cont'd)

subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

*Review by Administrative Rules Review Committee*

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

The following rule-making action is proposed:

Amend rule **283—8.2(261)**, definitions of “Eligible foster care student” and “Eligible surviving-child student,” as follows:

“*Eligible foster care student*” means a person who has a high school diploma or a high school equivalency diploma under Iowa Code chapter 259A and is described by any of the following:

1. Is age 17 and is in a court-ordered placement under Iowa Code chapter 232 under the care and custody of the department of human services or juvenile court services.
2. Is age 17 and has been placed in a state juvenile institution pursuant to a court order entered under Iowa Code chapter 232 under the care and custody of the department of human services.
3. Is age 18 through 23 and is described by any of the following:
  - On the date the person reached age 18 or during the 30 calendar days preceding or succeeding that date, the person was in a licensed foster care placement pursuant to a court order entered under Iowa Code chapter 232 under the care and custody of the department of human services or juvenile court services.
  - On the date the person reached age 18 or during the 30 calendar days preceding or succeeding that date, the person was under a court order under Iowa Code chapter 232 to live with a relative or other suitable person.
  - The person was in a licensed foster care placement pursuant to an order entered under Iowa Code chapter 232 prior to being legally adopted after reaching age 16.
  - On the date the person reached age 18 or during the 30 calendar days preceding or succeeding that date, the person was placed in a state juvenile institution pursuant to a court order entered under Iowa Code chapter 232 under the care and custody of the department of human services.

“*Eligible surviving-child student*” means a person who is ~~under age 26, or under age 30 if the student is a veteran who is eligible for or has exhausted benefits under the federal Post-9/11 Veterans Educational Assistance Act of 2008; who is not a convicted felon as defined in Iowa Code section 910.15; and who meets any of the following criteria:~~

1. Is the child of a peace officer, as defined in Iowa Code section 97A.1, who was killed in the line of duty as determined by the board of trustees of the Iowa department of public safety peace officers' retirement, accident, and disability system in accordance with Iowa Code section 97A.6(16).
2. Is the child of a police officer or fire fighter, as defined in Iowa Code section 411.1, who was killed in the line of duty as determined by the statewide fire and police retirement system in accordance with Iowa Code section 411.6(15).
3. Is the child of a sheriff or deputy sheriff, as defined in Iowa Code section 97B.49C, who was killed in the line of duty as determined by the Iowa public employees' retirement system in accordance with Iowa Code section 97B.52(2).
4. Is the child of a fire fighter or police officer included under Iowa Code section 97B.49B, who was killed in the line of duty as determined by the Iowa public employees' retirement system in accordance with Iowa Code section 97B.52(2).

**ARC 4595C**

**COLLEGE STUDENT AID COMMISSION[283]**

**Notice of Intended Action**

**Proposing rule making related to Iowa national guard educational assistance and providing  
an opportunity for public comment**

The College Student Aid Commission hereby proposes to amend Chapter 20, “Iowa National Guard Educational Assistance Program,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 261.3 and 261.86 as amended by 2019 Iowa Acts, House File 758.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapter 261.

*Purpose and Summary*

This proposed rule making implements amendments enacted by 2019 Iowa Acts, House File 758, sections 14, 15, and 16, and makes a technical amendment to reflect current practice. Section 16 of House File 758 amends the statute to allow students in science, technology, engineering, or mathematics (STEM)-related programs of study to receive up to 130 credit hours of funding. In addition, the statutory name of the National Guard Educational Assistance Program is being changed to the National Guard Service Scholarship Program. The proposed technical amendment updates the definition of “state-defined payment period” to reflect a recent change from five payment-reporting periods to six payment-reporting periods.

*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, pursuant to 283—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 Commission no later than 4:30 p.m. on September 3, 2019. Comments should be directed to:

## COLLEGE STUDENT AID COMMISSION[283](cont'd)

Karen Misjak  
Executive Director  
Iowa College Student Aid Commission  
475 S.W. Fifth Street, Suite D  
Des Moines, Iowa 50309-4608  
Phone: 515.725.3410  
Fax: 515.725.3401  
Email: [karen.misjak@iowa.gov](mailto:karen.misjak@iowa.gov) or administrative rules website: [rules.iowa.gov](http://rules.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 **283—Chapter 20**, title, as follows:

**IOWA NATIONAL GUARD EDUCATIONAL ASSISTANCE SERVICE SCHOLARSHIP  
PROGRAM**

ITEM 2. Amend rule 283—20.1(261), introductory paragraph, as follows:

**283—20.1(261) ~~Educational assistance~~ Scholarships to Iowa national guard members for undergraduate studies at eligible Iowa institutions.** The adjutant general shall determine eligibility requirements and select program recipients. The decision of the adjutant general is final.

ITEM 3. Amend subrule **20.1(1)**, definition of “State-defined payment period,” as follows:

“*State-defined payment period*” means one of ~~five~~ six payment terms and corresponding deadlines as defined by the college student aid commission.

ITEM 4. Amend subrule 20.1(5) as follows:

**20.1(5) Award limitations.** Awards may be used for ~~educational assistance including~~ tuition and fees; room and board; books, supplies, transportation and personal expenses; dependent care; and disability-related expenses. Individual award amounts shall be determined by the adjutant general and shall be neither less than an amount equal to 50 percent of the resident tuition rate established for students attending regent institutions nor exceed the amount of the resident tuition rate established for students attending regent institutions.

ITEM 5. Amend subrule 20.1(6) as follows:

**20.1(6) Restrictions.**

a. A guard member may use ~~benefits~~ scholarships only for undergraduate ~~educational assistance~~ expenses described in subrule 20.1(5).

b. A guard member who has met the educational requirements for a baccalaureate degree is not eligible for benefits.

c. A qualified student may receive benefits for no more than 120 semester credit hours, or the equivalent, of undergraduate study. All credit hours within a term of enrollment to which ~~educational~~

## COLLEGE STUDENT AID COMMISSION[283](cont'd)

~~assistance~~ a scholarship was applied must be reported to the commission within the state-defined payment period.

d. A qualified student who is enrolled in a postsecondary program of study that meets the eligibility requirements of the Edith Nourse Rogers STEM scholarship may receive benefits for no more than 130 credit hours, or the equivalent, of undergraduate study. All credit hours within a term of enrollment to which a scholarship is applied must be reported to the commission within the state-defined payment period.

ARC 4594C

**COLLEGE STUDENT AID COMMISSION[283]****Notice of Intended Action****Proposing rule making related to skilled workforce shortage tuition grants and providing an opportunity for public comment**

The College Student Aid Commission hereby proposes to amend Chapter 23, “Skilled Workforce Shortage Tuition Grant Program,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 261.3 and 261.130 as amended by 2019 Iowa Acts, Senate File 245.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapter 261.

*Purpose and Summary*

This proposed rule making implements amendments enacted in 2019 Iowa Acts, Senate File 245. Senate File 245 strikes references to an Iowa Department of Workforce Development reporting requirement, effective July 1, 2019. Senate File 245 also provides a grandfather clause for students enrolled in a program of study that is subsequently removed from the list of eligible programs.

*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, pursuant to 283—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 Commission no later than 4:30 p.m. on September 3, 2019. Comments should be directed to:

## COLLEGE STUDENT AID COMMISSION[283](cont'd)

Karen Misjak  
Executive Director  
Iowa College Student Aid Commission  
475 S.W. Fifth Street, Suite D  
Des Moines, Iowa 50309-4608  
Phone: 515.725.3410  
Fax: 515.725.3401  
Email: [karen.misjak@iowa.gov](mailto:karen.misjak@iowa.gov) or administrative rules website: [rules.iowa.gov](http://rules.iowa.gov)

*Public Hearing*

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

*Review by Administrative Rules Review Committee*

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

The following rule-making actions are proposed:

ITEM 1. Amend subrule 23.1(2) as follows:

**23.1(2) Student eligibility.**

- a. A recipient must be an Iowa resident as defined in 283—Chapter 10.
- b. A recipient must be enrolled at an Iowa community college for at least three semester hours or the equivalent in a career-technical, career option, or other training program which is eligible for federal Title IV funding and is in an industry which has been identified as having a shortage of skilled workers by the community college in a regional skills gap analysis or by the department of workforce development ~~in the department’s most recent quarterly report. If a community college no longer identifies the industry as having a shortage of skilled workers or the department no longer identifies the industry as a high-demand job, an eligible student who received a grant for a career-technical or career option program based on that identification shall continue to receive the grant until achieving a postsecondary credential, up to an associate degree, as long as the student is continuously enrolled in that program and continues to meet all other eligibility requirements.~~
- c. A recipient may receive an award under this program for general education classes identified by the community college as required for completion of a career-technical or career option program in an identified skilled workforce shortage area. A recipient must be concurrently enrolled in a career-technical or career option program.
- d. A recipient may receive an award under this program for not more than the equivalent of four semesters. A recipient who is making satisfactory academic progress but cannot complete the course because of required classes may receive the grant for one additional semester.
- e. A recipient who is a full-time student may receive no more than one-half of the student’s tuition and fees, as established by the commission, or the amount of the student’s established financial need, whichever is less. A recipient who is a part-time student shall receive a prorated portion of the full-time award. The proration will be established by the commission in a manner consistent with federal Pell Grant Program proration. Recipients who are part-time students enrolled in 3 to 5 credit hours will receive awards equal to one-fourth of the full-time award; recipients enrolled in 6 to 8 credit hours will receive awards equal to one-half of the full-time award; and recipients enrolled in 9 to 11 credit hours will receive awards equal to three-fourths of the full-time award.

## COLLEGE STUDENT AID COMMISSION[283](cont'd)

*f.* A recipient may again be eligible for an award under paragraph 23.1(2) “d” if the recipient resumes study after at least a two-year absence, except that award assistance shall not be used for coursework for which credit was previously received.

ITEM 2. Amend subrule 23.1(3) as follows:

**23.1(3) Priority for grants.**

*a.* Applicants enrolled in programs required to fill the needs of industry in areas which have been identified as having shortages of skilled workers by the community college in a regional skills gap analysis or by the department of workforce development ~~in the department’s most recent quarterly report~~ will receive priority. Skill gap areas will be ranked by each community college in order of the perceived need, and awards will be made to applicants as long as funding remains available.

*b.* Applicants who apply by the priority date specified in the application are ranked in order of the estimated amount of the family’s contribution toward college expenses, and awards are granted to those who demonstrate need in order of family contribution from lowest to highest, insofar as funds permit.

ITEM 3. Amend rule **283—23.1(261)**, implementation sentence, as follows:

This rule is intended to implement 2012 Iowa Acts, Senate File 2321, section 20 Iowa Code section 261.130.

**ARC 4596C**

**COLLEGE STUDENT AID COMMISSION[283]**

**Notice of Intended Action**

**Proposing rule making related to student loan debt collection  
and providing an opportunity for public comment**

The College Student Aid Commission hereby proposes to amend Chapter 37, “Student Loan Debt Collection,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 261.3.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapter 261 as amended by 2019 Iowa Acts, Senate File 304.

*Purpose and Summary*

This proposed rule making implements 2019 Iowa Acts, Senate File 304, section 3, which repeals sections of the Iowa Code relating to license sanctions for defaulted student loan borrowers.

*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, pursuant to 283—Chapter 7.

## COLLEGE STUDENT AID COMMISSION[283](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 Commission no later than 4:30 p.m. on September 3, 2019. Comments should be directed to:

Karen Misjak  
Executive Director  
Iowa College Student Aid Commission  
475 S.W. Fifth Street, Suite D  
Des Moines, Iowa 50309-4608  
Phone: 515.725.3410  
Fax: 515.725.3401  
Email: [karen.misjak@iowa.gov](mailto:karen.misjak@iowa.gov) or administrative rules website at [rules.iowa.gov](http://rules.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 283—37.1(261) as follows:

**283—37.1(261) General purpose.** ~~In collection of defaulted student loans, the commission may initiate the license sanction process described in Iowa Code sections 261.121 to 261.127 to suspend, revoke or deny issuance or renewal of a variety of licenses held or applied for by any person who has defaulted on an obligation owed to or collected by the commission. Licenses subject to this sanction are defined in Iowa Code section 252J.1(3). In addition to the procedures set forth in Iowa Code sections 261.121 to 261.127, this chapter shall apply.~~

The In collection of defaulted student loans, the commission may apply administrative wage garnishment and state tax offset procedures established under Iowa Code chapter 261, specifically including private partnership loans authorized for collection under Iowa Code section 261.38.

ITEM 2. Rescind and reserve rule **283—37.3(261)**.

ITEM 3. Amend **283—Chapter 37**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 261.37, and 261.38 ~~and 261.121 to 261.127.~~



**ARC 4601C****HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action****Proposing rule making related to definitions and forms  
and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 13, “Program Evaluation,” Iowa Administrative Code.

*Legal Authority for Rule Making*

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

*State or Federal Law Implemented*

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

*Purpose and Summary*

These proposed amendments clarify the programs that are reviewed by the Department of Human Services Quality Control Bureau. These amendments also update forms that are required in that process.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

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

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on September 3, 2019. Comments should be directed to:

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

*Public Hearing*

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

## HUMAN SERVICES DEPARTMENT[441](cont'd)

*Review by Administrative Rules Review Committee*

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

The following rule-making actions are proposed:

ITEM 1. Amend **441—Chapter 13**, preamble, as follows:

## PREAMBLE

The purpose of this chapter is to define the methods and procedures used by the department to provide a systematic ~~method~~ process for measuring the validity of the eligibility determinations in the ~~aid to dependent children (ADC)~~ family investment program (FIP), food stamp assistance program, child care assistance program, and Medicaid programs medical assistance program; to provide a basis for establishing state agency liability for errors ~~that exceed the national standard and state agency eligibility for enhanced funding~~; and to provide program information ~~which~~ that can be used by the department in determining a corrective action plan to ensure the rules and regulations are implemented in accordance with the ADC, food stamp and Medicaid program rules.

ITEM 2. Rescind rule 441—13.1(234,239B,249A) and adopt the following new rule in lieu thereof:

**441—13.1(234,239B,249A,514I) Definitions.**

*“Active case”* means a case that was receiving assistance for the month of review.

*“Case record”* means the record used to establish a client's eligibility.

*“Client”* means a current or former applicant or recipient of the family investment program (FIP), food assistance program, child care assistance program, or medical assistance program.

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

*“Field investigation”* means a contact involving the public or other agencies to obtain information about the client's circumstances for the appropriate month of review.

*“Local agency”* means the local or service area office of the department.

*“Medical assistance programs”* means those programs funded by Medicaid or the Children's Health Insurance Program (CHIP).

*“Month of review”* means the specific calendar or fiscal month for which the assistance under review is received.

*“Negative case”* means a case that was terminated or denied assistance in the month of review.

*“Public assistance programs”* means those programs involving federal funds, i.e., family investment program (FIP), food assistance program, child care assistance program, and medical assistance program.

*“Random sample”* means a systematic (or every nth unit) sample drawn monthly for which each item in the universe has an equal probability of being selected. Sample size is determined by federal guidelines or state corrective action needs.

*“State policies”* means the rules and regulations used by the department to administer the family investment program (FIP), food assistance program, child care assistance program, and medical assistance program.

This rule is intended to implement Iowa Code sections 234.12, 239B.4, 249A.4 and 514I.4.

ITEM 3. Amend rule 441—13.2(234,239B,249A) as follows:

**441—13.2(234,239B,249A,514I) Review of public assistance records by the department.**

**13.2(1)** No change.

**13.2(2)** All pertinent case records within the department may be used by the reviewer to assist in substantiating an accurate reflection as to the correctness of the assistance ~~paid to~~ received by the client.

This rule is intended to implement Iowa Code sections 234.12, 239B.4, ~~and~~ 249A.4 and 514I.4.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 4. Amend rule 441—13.3(234,239B,249A) as follows:

**441—13.3(234,239B,249A,514I) Who shall be reviewed.** Any active or negative public assistance case may be reviewed at any time at the discretion of the department based upon a random sample to:

**13.3(1) to 13.3(3)** No change.

This rule is intended to implement Iowa Code sections 234.6, 234.12, 239B.4, and 249A.4, and 514I.4.

ITEM 5. Amend rule 441—13.4(234,239B,249A) as follows:

**441—13.4(234,239B,249A,514I) Notification of review.** On positive case actions, clients shall be notified, either orally or in writing, that their case has been selected for review when contact is required by federal guidelines, or when contact is allowed and additional information is required to complete the review. The client will be contacted in a negative case only if a discrepancy exists which that cannot be resolved from the case record and contact is allowed by federal guidelines.

This rule is intended to implement Iowa Code sections 234.6, 234.12, 239B.4, and 249A.4, and 514I.4.

ITEM 6. Rescind rule 441—13.5(234,239B,249A) and adopt the following new rule in lieu thereof:

**441—13.5(234,239B,249A,514I) Review procedure.** The department will select the appropriate method of conducting the review. Review procedures may include, but are not limited to, the following:

**13.5(1)** A random sampling of active and negative case actions shall be used to determine the case records to be studied.

**13.5(2)** The case record shall be analyzed for discrepancies and correct application of policies and procedures and shall be used as the basis for a field investigation.

**13.5(3)** Client interviews shall be required as follows:

- a. Personal interviews are required on all active food assistance reviews.
- b. An appointment letter may be sent to the client on department letterhead to schedule or confirm the appointment date, time and location.
- c. Client contacts are only required in negative case reviews when there is a discrepancy that cannot be resolved from the case record.

**13.5(4)** Collateral contacts are made whenever the client is unable to furnish information needed or the reviewer needs additional information to establish the correctness of eligibility and payment but only when allowed by federal guidelines. Verification to confirm the accuracy of statements or information may be obtained by documentary evidence or a contact with a third party.

a. The client shall be required to release specific information whenever necessary to verify information essential to the determination of eligibility and payment.

b. Should the client refuse to authorize the department to contact an informant to verify information that is necessary for the completion of the review, collateral contacts shall still be made through use of the general release statement contained in the financial support application or the review/recertification eligibility document;

This rule is intended to implement Iowa Code sections 234.6, 234.12, 239B.4, 249A.4, and 514I.4.

ITEM 7. Amend rule 441—13.6(234,239B,249A) as follows:

**441—13.6(234,239B,249A) Failure to cooperate.** Client cooperation with quality control is a program eligibility requirement as set forth in ~~441—subrule 40.7(4), paragraph “d,” and rules rule 441—65.3(234) and 441—76.8(249A)~~. When quality control determines that the client has refused to cooperate with the review process, the client is no longer eligible for the program benefits and will not be eligible for the program benefits until the client has cooperated.

This rule is intended to implement Iowa Code ~~sections~~ section 234.12, ~~239B.4~~ and 249A.4.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 8. Amend rule 441—13.7(234,239B,249A) as follows:

**441—13.7(234,239B,249A,514I) Report of findings.** The quality control review findings are utilized by the department in the following ways:

**13.7(1)** The local agency will use the findings in taking the appropriate case actions where an overpayment or underpayment has been found in a client's case record.

**13.7(2)** The department will use the overall findings to identify ~~error-prone~~ error-prone program issues to be used in planning ~~their~~ its corrective action plan.

**13.7(3)** The department will use the findings of the overall sample period to determine the error rate used to establish state agency liability ~~or enhanced funding~~.

This rule is intended to implement Iowa Code sections 234.12, 239B.4, ~~and~~ 249A.4, and 514I.4.

ITEM 9. Amend rule 441—13.8(234,239B,249A) as follows:

**441—13.8(234,237A,239B,249A,514I) Federal rereview.** A sample of ~~the cases selected by the department for review will~~ may also be reviewed by the applicable federal agency to determine the correctness of the department's action or of the department's review of the case.

This rule is intended to implement Iowa Code sections 234.12, 237A.12, 239B.4, 249A.4, and 514I.4.

**ARC 4600C**

## HUMAN SERVICES DEPARTMENT[441]

### Notice of Intended Action

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

The Human Services Department hereby proposes to amend Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," Chapter 80, "Procedure and Method of Payment," and Chapter 81, "Nursing Facilities," Iowa Administrative Code.

#### *Legal Authority for Rule Making*

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

#### *State or Federal Law Implemented*

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

#### *Purpose and Summary*

These proposed amendments provide updated form names, numbers, and terminology and remove references to form names and numbers that are no longer in use.

#### *Fiscal Impact*

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

#### *Jobs Impact*

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

#### *Waivers*

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

## HUMAN SERVICES DEPARTMENT[441](cont'd)

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on September 3, 2019. Comments should be directed to:

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

*Public Hearing*

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

*Review by Administrative Rules Review Committee*

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

The following rule-making actions are proposed:

ITEM 1. Amend subparagraph **79.3(2)“d”(33)** as follows:

(33) Case management services, including HCBS case management services:

~~1. Form 470-3956, MR/CMI/DD Case Management Service Authorization Request, for services authorized before May 1, 2007.~~

- ~~2. 1.~~ Notice of decision for service authorization.
- ~~3. 2.~~ Service notes or narratives.
- ~~4. 3.~~ Social history.
- ~~5. 4.~~ Comprehensive service plan.
- ~~6. 5.~~ Reassessment of member needs.
- ~~7. 6.~~ Incident reports in accordance with 441—subrule 24.4(5).
- ~~8. 7.~~ Other service documentation as applicable.

ITEM 2. Amend subparagraph **79.3(2)“d”(38)** as follows:

(38) Hearing aid dealer and audiologist services:

1. Physician examinations and audiological testing (Form 470-0361, Sections A, B, and C).
- ~~2. Documentation of hearing aid evaluation and selection (Form 470-0828).~~
- ~~3. 2.~~ Waiver of informed consent.
- ~~4. 3.~~ Prior authorization documentation.
- ~~5. 4.~~ Service or office notes or narratives.

ITEM 3. Amend subparagraphs **79.8(1)“c”(1)** and **(2)** as follows:

(1) Use Form ~~470-3970~~ 470-0829, Prior Authorization Attachment Control, as the cover sheet for the paper attachments or supporting clinical documentation; and

(2) Reference on Form ~~470-3970~~ 470-0829 the attachment control number submitted on the ASC X12N 278 electronic transaction.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 4. Amend paragraph **80.2(2)“b”** as follows:

b. All other nursing facilities and intermediate care facilities for ~~the mentally retarded persons~~ with an intellectual disability shall file claims ~~on Form 470-0039, Iowa Medicaid Long-Term Care Claim~~ using an electronic version of Form UB-04 CMS-1450.

ITEM 5. Amend subparagraph **81.6(16)“g”(9)** as follows:

(9) Source of measurements. Source reports are due to the department by May 1 of each year. For those measures whose source is self-certification, the data shall be drawn from ~~Form 470-4828, Nursing Facility Medicaid Pay-for-Performance Self-Certification Report~~, a report submitted by the facility to IME. The independent party that collects and compiles the results of the resident/family survey shall communicate the results to IME on Form 470-3891, Nursing Facility Opinion Survey Transmittal. The department shall request required source reports from the long-term care ombudsman and the department of inspections and appeals (DIA).

**ARC 4603C**

## **HUMAN SERVICES DEPARTMENT[441]**

### **Notice of Intended Action**

#### **Proposing rule making related to preinspection visits and application process for child care centers and providing an opportunity for public comment**

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

#### *Legal Authority for Rule Making*

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

#### *State or Federal Law Implemented*

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

#### *Purpose and Summary*

These proposed amendments document the expectation of a preinspection visit prior to granting a new child care center permission to open. Preinspection visits occur in practice already. These amendments also clarify the expectation around Department receipt of the regulatory fee during application and when and where the fee is submitted. These proposed amendments better align rules to current practice.

#### *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*

This amendment does not provide a specific waiver authority because families may request a waiver of these provisions in a specified situation under the Department’s general rule on exceptions at rule 441—1.8(17A,217).

## HUMAN SERVICES DEPARTMENT[441](cont'd)

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on September 3, 2019. Comments should be directed to:

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

*Public Hearing*

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

*Review by Administrative Rules Review Committee*

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

The following rule-making actions are proposed:

ITEM 1. Amend subrule 109.2(1) as follows:

**109.2(1) Application for license.**

*a.* and *b.* No change.

*c.* When a center makes a sufficient application for an initial license, the center may operate for a period of up to 120 calendar days from the date of issuance of the form granting permission to open without a license, pending a final licensing decision. A center has made a sufficient application when it has had an on-site visit and has submitted the following to the department:

(1) to (4) No change.

~~(5) The regulatory fee as specified in subrule 109.2(7), and the fee is received by the department's division of fiscal management.~~

*d.* Applicants shall submit the regulatory fee as specified in subrule 109.2(7) to the department's division of fiscal management.

~~*e.*~~ *e.* Applicants shall be notified of approval or denial of initial applications within 120 days from the date the application is submitted.

(1) and (2) No change.

~~*e.*~~ *f.* The department shall not act on a licensing application for 12 months after an applicant's child care center license has been denied or revoked.

~~*f.*~~ *g.* When the department has denied or revoked a license, the applicant or person shall be prohibited from involvement with child care unless the department specifically permits involvement through a record check decision.

ITEM 2. Amend paragraph **109.2(4)“f”** as follows:

*f.* The regulatory fee as specified in subrule 109.2(7) is not received by the department's division of fiscal management by within 60 calendar days from the due date ~~indicated on the child care center licensing fee invoice.~~

## HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 3. Amend subrule 109.2(7) as follows:

**109.2(7) Regulatory fees.** A fee based upon center capacity is due to the department ~~before the~~ at the time of issuance of the license in accordance with this subrule.

*a. to c.* No change.

*d. Payment.* The center shall return the child care center licensing fee invoice to the department with the licensing fee payment within ~~30~~ 60 calendar days from the date ~~of~~ on the ~~licensing consultant's or designee's signature on the~~ invoice. Payment may be in the form of cash, check, money order, or cashier's check. Regulatory fees are nonrefundable and nontransferable.

~~(1) Payment must be received before the department will issue a full or provisional license.~~

~~(2) Regulatory fees are nonrefundable and nontransferable.~~

ITEM 4. Amend rule 441—109.3(237A), introductory paragraph, as follows:

**441—109.3(237A) Inspection and evaluation.** The department shall conduct an unannounced on-site visit in order to make a licensing recommendation for all initial and renewal applications for licensure and shall determine compliance with licensing standards imposed by licensing laws and these rules when a complaint is received.

**ARC 4602C**

## HUMAN SERVICES DEPARTMENT[441]

### Notice of Intended Action

#### Proposing rule making related to child abuse mandatory reporter training for child care providers and providing an opportunity for public comment

The Human Services Department hereby proposes to amend Chapter 109, “Child Care Centers,” Chapter 110, “Child Development Homes,” and Chapter 120, “Child Care Homes,” Iowa Administrative Code.

#### *Legal Authority for Rule Making*

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

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, 2019 Iowa Acts, House File 731.

#### *Purpose and Summary*

These proposed amendments change child abuse mandatory reporter training requirements for child care providers from once every five years to once every three years with modified expectations. These proposed amendments remove the five-year requirement and state that certification must be maintained. Additionally, the proposed amendments require all child care providers to participate in minimum health and safety training as a preservice or orientation requirement. The requirement for child care providers to take preservice training every five years without training credit is removed. Child care providers would be able to continue their professional development requirements without repeating the same training and may also receive credit for the training taken.

#### *Fiscal Impact*

No fiscal impact is anticipated because the Department will continue to contract with agencies to provide the necessary provider training. Each child care provider will determine the provider's own ongoing professional development needs while maintaining the minimum required training and content areas identified in the rules.



## HUMAN SERVICES DEPARTMENT[441](cont'd)

*Jobs Impact*

The proposed rule making would reduce the financial burden to child care providers who are currently required to take 12 hours of mandated orientation/preservice professional development without receiving training credit. Child care providers will take training that meets minimum hour and content area requirements, and approved training will count toward the minimum requirements.

*Waivers*

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

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on September 3, 2019. Comments should be directed to:

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

*Public Hearing*

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

*Review by Administrative Rules Review Committee*

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

The following rule-making actions are proposed:

ITEM 1. Amend paragraph **109.7(1)“e”** as follows:

*e.* Minimum health and safety trainings, approved by the department, in the following areas ~~and every five years thereafter:~~

(1) to (10) No change.

Minimum health and safety training may be required ~~prior to the five-year period~~ if content has significant changes which warrant that the training be renewed.

ITEM 2. Amend paragraph **109.7(3)“e”** as follows:

*e.* Minimum health and safety trainings, approved by the department, in the following areas:

- (1) Prevention and control of infectious disease, including immunizations.
- (2) Prevention of sudden infant death syndrome and use of safe sleep practices.
- (3) Administration of medication, consistent with standards for parental consent.
- (4) Prevention of and response to emergencies due to food and allergic reactions.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

- (5) Building and physical-premises safety, including identification of and protection from hazards that can cause bodily injury, such as electrical hazards, bodies of water, and vehicular traffic.
- (6) Prevention of shaken baby syndrome and abusive head trauma.
- (7) Emergency preparedness and response planning for emergencies resulting from a natural disaster or a human-caused event.
- (8) Handling and storage of hazardous materials and the appropriate disposal of biocontaminants.
- (9) Precautions in transporting children.
- (10) Child development, on or after August 1, 2017.

ITEM 3. Amend paragraph **110.9(2)“c”** as follows:

- c. Certification of a minimum of two hours of approved training relating to the identification and reporting of child abuse as required by Iowa Code section 232.69, completed within three months of employment ~~and every five years thereafter, as required by Iowa Code section 232.69.~~

ITEM 4. Amend paragraph **110.9(3)“c”** as follows:

- c. Certification of a minimum of two hours of approved training relating to the identification and reporting of child abuse as required by Iowa Code section 232.69, completed within three months of employment ~~and every five years thereafter, as required by Iowa Code section 232.69.~~

ITEM 5. Amend paragraph **110.10(1)“a”** as follows:

- a. Prior to registration ~~and every five years thereafter~~, the provider shall complete minimum health and safety trainings, approved by the department, in all of the following areas:
  - (1) to (10) No change.

ITEM 6. Amend paragraph **110.10(1)“b”** as follows:

- b. Prior to registration ~~and every five years thereafter~~, the provider shall complete two hours of Iowa's training for mandatory reporting of child abuse as required by Iowa Code section 232.69. The provider shall maintain a valid certificate indicating expiration date.

ITEM 7. Rescind paragraph **110.10(1)“e.”**

ITEM 8. Reletter paragraphs **110.10(1)“f”** and **“g”** as **110.10(1)“e”** and **“f.”**

ITEM 9. Amend relettered paragraph **110.10(1)“e”** as follows:

- e. Minimum health and safety training may be required ~~prior to the five-year period~~ if content has significant changes which warrant that the training be renewed.

ITEM 10. Amend subrule 120.10(1), introductory paragraph, as follows:

- 120.10(1)** Prior to the issuance of a provider agreement ~~and every five years thereafter~~, the provider shall complete minimum health and safety trainings, approved by the department, in all of the following content areas:

ITEM 11. Amend subrule 120.10(2) as follows:

- 120.10(2)** Prior to issuance of a provider agreement ~~and every five years thereafter~~, the provider shall complete two hours of Iowa's training for mandatory reporting of child abuse as required by Iowa Code section 232.69. The provider shall maintain a valid certificate indicating expiration date.

ITEM 12. Amend subrule 120.10(4) as follows:

- 120.10(4)** Minimum health and safety training may be required ~~prior to the five-year period~~ if content has significant changes which warrant that the training be renewed.

**ARC 4589C**

**INSPECTIONS AND APPEALS DEPARTMENT[481]**

**Notice of Intended Action**

**Proposing rule making related to food and consumer safety and food establishment and food processing plant inspections and providing an opportunity for public comment**

The Inspections and Appeals Department hereby proposes to amend 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 proposed 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 proposed amendments correct the date in the reference to the Food and Drug Administration Food Code with Supplement in rule 481—30.2(10A,137C,137D,137F). The 2013 Food Code was adopted by the Department effective January 1, 2018 (rule 481—31.1(137F), **ARC 3188C**, IAB 7/5/17).

The proposed amendments also reinstate several provisions related to double licenses in rule 481—30.7(137F) that were removed in 2018, which resulted in unintended consequences to licensees.

The proposed amendments add a confidentiality provision related to complainants who file a complaint with the Department’s Food and Consumer Safety Bureau.

The proposed amendments implement changes made to Iowa Code chapter 137F resulting from the enactment of 2019 Iowa Acts, Senate File 265. The legislation requires the Department to adopt rules for the sale at a farmers market of culinary mushrooms commonly referred to as a variety of wild oyster.

Finally, the proposed amendments adopt a definition of “wild-harvested mushroom” and amend the requirements related to the wild-harvested mushroom identification course to obtain certification as a wild-harvested mushroom identification expert.

Prior to submission of this Notice, the Department distributed for comment a draft of these proposed amendments to industry associations, local contracting health departments and food safety educators.

*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.

*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 September 3, 2019. Comments should be directed to:

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

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 rule 481—30.2(10A,137C,137D,137F), introductory paragraph, as follows:

**481—30.2(10A,137C,137D,137F) Definitions.** If both the ~~2009~~ 2013 Food and Drug Administration Food Code with Supplement and rule 481—30.2(10A,137C,137D,137F) define a term, the definition in rule 481—30.2(10A,137C,137D,137F) shall apply.

ITEM 2. Adopt the following new definition of “Wild-harvested mushroom” in rule **481—30.2(10A,137C,137D,137F)**:

“*Wild-harvested mushroom*” means a fresh mushroom that has been picked in the wild and has not been processed (e.g., dried or frozen). “Wild-harvested mushroom” does not include cultivated mushrooms or mushrooms that have been packaged in an approved food processing plant.

ITEM 3. Amend rule 481—30.7(137F) as follows:

**481—30.7(137F) Double licenses.**

**30.7(1)** Any establishment that holds a food service establishment license and has gross sales over \$20,000 annually in packaged food items intended for consumption off the premises shall also be required to obtain a retail food establishment license. The license holder shall keep a record of these food sales and make it available to the department upon request.

**30.7(2)** Licensed retail food establishments serving only coffee, soft drinks, popcorn, prepackaged sandwiches or other food items manufactured and packaged by a licensed establishment need only obtain a retail food establishment license.

**30.7(3)** A food establishment that holds both a food service establishment license and a retail food establishment license shall pay a license fee based on the annual gross sales for the dominant form of business plus \$150.

EXAMPLE: A food establishment holds a food service establishment license and a retail food establishment license. It has annual gross sales of more than \$750,000 for its retail food establishment and \$120,000 for its food service establishment. The food establishment pays a license fee of \$400 for its retail food establishment license (paragraph 30.4(1) “c”) and \$150 for its food service establishment license (rule 481—30.7(137F)).

**30.7(4)** The dominant form of business shall determine the type of license for establishments which engage in operations covered under both the definition of a food establishment and of a food processing

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

plant. The dominant form of business shall be deemed to be the business with higher annual gross sales. Food establishments that also process low-acid food in hermetically sealed containers or process acidified foods are required to have a food processing plant license in addition to the food establishment license. Regardless of the type of license, food processing plants shall be inspected pursuant to food processing inspection standards and food establishments shall be inspected pursuant to the Food Code.

This rule is intended to implement Iowa Code sections 10A.104 and 137F.6.

ITEM 4. Amend subrule 30.9(2) as follows:

**30.9(2) Confidential records.** The following are examples of confidential records:

- a. Trade secrets and proprietary information including items such as formulations, processes, policies and procedures, and customer lists;
- b. Health information related to foodborne illness complaints and outbreaks; ~~and~~
- c. The name or any identifying information of a person who files a complaint with the department;
- ~~e- d.~~ Other state or federal agencies' records.

For records of other federal or state agencies, the department shall refer the requester of such information to the appropriate agency.

ITEM 5. Amend subrule 31.1(4) as follows:

**31.1(4) Morel mushrooms and oyster mushrooms (*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 ostreatus*, *Pleurotus populinus*, or *Pleurotus pulmonarius*) if procured from an individual who has completed a ~~morel~~ wild-harvested mushroom identification expert course. Every morel mushroom or oyster mushroom shall be identified and found to be safe by a certified ~~morel~~ wild-harvested mushroom identification expert whose competence has been verified and approved by the department through the expert’s successful completion of a ~~morel~~ 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 ~~morel~~ wild-harvested mushroom identification expert shall personally inspect each mushroom and determine it to be a morel mushroom or an oyster mushroom. A ~~morel~~ wild-harvested mushroom identification expert course shall be at least ~~three~~ 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~~ “To maintain status as a ~~morel~~ wild-harvested mushroom identification expert, the individual shall have successfully completed a ~~morel~~ wild-harvested mushroom identification expert course described above within the past three years. A person who wishes to offer a ~~morel~~ 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 ~~morel~~ wild-harvested mushroom identification expert;

“2. A copy of the ~~morel~~ 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~~ wild-harvested mushrooms should be thoroughly cooked and may cause allergic reactions or other effects.”

**ARC 4590C**

**INSPECTIONS AND APPEALS DEPARTMENT[481]**

**Notice of Intended Action**

**Proposing rule making related to amusement concessions and posted rules and providing an opportunity for public comment**

The Inspections and Appeals Department hereby proposes to amend Chapter 100, “General Provisions for Social and Charitable Gambling,” and Chapter 101, “Amusement Concessions,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 10A.104 and 99B.2.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapter 99B and 2018 Iowa Acts, Senate File 2333.

*Purpose and Summary*

The proposed amendments to Chapter 101 implement changes made to Iowa Code chapter 99B resulting from 2018 Iowa Acts, House File 2333, which increased to \$950 the value of a prize that may be awarded for playing an amusement concession. The proposed amendments to Chapter 101 also implement changes to Iowa Code chapter 99B resulting from 2015 Iowa Acts, Senate File 482.

The proposed amendments to Chapter 100 clarify that rules made available on a sign near the front of a playing area or electronically at each player’s location shall be accessible to the player before the player forfeits money to play the game.

*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.

*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 September 3, 2019. Comments should be directed to:

Ashleigh Hackel  
Iowa Department of Inspections and Appeals  
Lucas State Office Building  
321 East 12th Street  
Des Moines, Iowa 50319-0083  
Email: [ashleigh.hackel@dia.iowa.gov](mailto:ashleigh.hackel@dia.iowa.gov)

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

*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 481—100.8(99B) as follows:

**481—100.8(99B) Posted rules—games other than bingo and raffles.** Rules established by the licensee shall be posted on a sign near the front of the playing area or made available electronically at each player's location. Rules for each game shall be accessible to a player before the player forfeits money to play the game. Rules shall be in large, easily readable print and shall include:

1. to 5. No change.

ITEM 2. Amend rule 481—101.1(99B) as follows:

**481—101.1(99B) License requirements.** No games shall be conducted until an application is approved and a license is issued by the department.

**101.1(1) License required.** A gambling license is required for each amusement concession game. The name and description of the game shall be attached to the application.

**101.1(2) Licensee.** The person conducting an amusement concession, for the purposes of licensure, is the owner of the amusement concession.

**101.1(3) Requirements.** Application and license requirements are found in rules 481—100.2(99B) and 100.3(99B) 481—Chapter 100.

~~**101.1(1)** A carnival, bazaar, centennial or celebration sponsored by a bona fide civic group, service club or merchants group may be issued a license which allows the sponsor of the event to conduct all games permitted for 14 consecutive calendar days. Anyone other than the sponsor who conducts a game must apply for a license and pay the fee shown on the application.~~

~~**101.1(2)** The location of an amusement concession shall comply with requirements in Iowa Code section 99B.4.~~

This rule is intended to implement Iowa Code section ~~99B.4~~ 99B.31.

ITEM 3. Amend rule 481—101.2(99B) as follows:

**481—101.2(99B) Prizes.** All prizes shall be merchandise. The value of any prize shall not exceed ~~\$50~~ \$950. Small merchandise prizes may be exchanged for a prize of greater value if the value of the exchanged prize does not exceed ~~\$50~~ \$950. A prize which cannot be obtained shall not be displayed.

This rule is intended to implement Iowa Code section ~~99B.3~~ 99B.31.

ITEM 4. Amend rule 481—101.3(99B) as follows:

**481—101.3(99B) Conducting games.** In addition to the requirements found in Iowa Code section 99B.31, the following apply.

**101.3(1) Object of each game.** The object of each game must be attainable and possible to perform under the rules of the game by an average individual.

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

**101.3(2) *No hidden numbers allowed.*** The possible results shall not be hidden, as in a punchboard or pull-tab which conceals numbers.

**101.3(3) *Cost.*** The cost to play each game shall not exceed \$3 ~~\$5~~.

~~Iowa Code section 99B.3 prohibits raffles at any licensed amusement concession.~~

This rule is intended to implement Iowa Code section ~~99B.3~~ 99B.31.

ITEM 5. Amend rule 481—101.4(99B) as follows:

**481—101.4(99B) Posted rules.** ~~Rules for each game shall be clearly posted on a sign at least 30 inches by 30 inches~~ Requirements for posted rules are found in rule 481—100.8(99B).

This rule is intended to implement Iowa Code section ~~99B.3~~ 99B.31.

**ARC 4605C****LIBRARIES AND INFORMATION SERVICES DIVISION[286]****Notice of Intended Action****Proposing rule making related to the definition of “public library” and providing an opportunity for public comment**

The Commission of Libraries hereby proposes to amend Chapter 1, “Organization and Operation,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 256.52(4).

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 256.50.

*Purpose and Summary*

Rule 286—1.1(256) includes definitions for the State Library’s purposes. The proposed amendment adds the definition of a “public library,” which determines a library’s eligibility to receive funding and consulting services from the State Library and to participate in its programs.

*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, pursuant to 286—Chapter 10.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the State Library no later than 4:30 p.m. on September 3, 2019. Comments should be directed to:



## LIBRARIES AND INFORMATION SERVICES DIVISION[286](cont'd)

Michael Scott  
State Librarian  
State Library of Iowa  
Ola Babcock Miller State Office Building  
1112 East Grand Avenue  
Des Moines, Iowa 50319  
Phone: 515.242.5062  
Email: [michael.scott@iowa.gov](mailto:michael.scott@iowa.gov)

*Public Hearing*

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

*Review by Administrative Rules Review Committee*

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

The following rule-making action is proposed:

Amend rule 286—1.1(256) as follows:

**286—1.1(256) Definitions.** The definitions used in Iowa Code chapters 17A and 256 ~~will~~ apply for terms used throughout ~~this chapter~~ these rules. In addition, the following definitions ~~will~~ apply:

“ADA” means the Americans with Disabilities Act of 1990.

“Administrator” means the state librarian, who shall serve as the administrator of the division of libraries of the department of education.

“Department” means the department of education.

“Director” means the director of the department of education.

“LSTA” means the Library Services and Technology Act Grant Program as defined by P.L. 104-208 (1997).

“Public library,” for the state library’s purposes, is defined as an entity which meets all of the following criteria:

1. It is a city library established by municipal ordinance pursuant to Iowa Code section 392.1, or it is a county or district library established pursuant to Iowa Code chapter 336.

• A city library’s ordinance shall be on file with the state library.

• A county or district library’s abstract of votes from the county auditor’s office shall be on file with the state library.

2. It shall be operated and maintained, in whole or in part, with local financial support derived from the city pursuant to Iowa Code section 256.69.

3. It shall have an organized collection of print or digital resources, or a combination of such resources, suitable to persons of all ages and accessible to the public.

4. It shall have paid staff to provide and interpret such resources as required to meet the informational, cultural, recreational, and educational needs of the public.

5. It shall have regularly scheduled hours during which it is open to the public.

6. It shall have the facilities necessary to support such a collection, staff, and schedule. The library may provide services through a single public outlet or through any combination of outlets.

## LIBRARIES AND INFORMATION SERVICES DIVISION[286](cont'd)

Public libraries in Iowa meeting the criteria in this definition are eligible to receive consulting services from the state library and participate in its programs.

To be eligible to receive funding from the state library, public libraries in Iowa must participate in the state library's enrich Iowa program, which provides direct state aid and offers interlibrary loan reimbursement and open access to users.

"*State librarian*" means the chief operating officer of the state library.

"*State library*" means the library agency within the division of libraries of the department of education.

**ARC 4597C****NURSING BOARD[655]****Notice of Intended Action****Proposing rule making related to prohibited grounds for discipline and providing an opportunity for public comment**

The Board of Nursing hereby proposes to amend Chapter 4, "Discipline," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 17A.3 and section 272C.4 as amended by 2019 Iowa Acts, Senate File 304.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 272C.4(10) as amended by 2019 Iowa Acts, Senate File 304.

*Purpose and Summary*

2019 Iowa Acts, Senate File 304, amends Iowa Code section 272C.4(10) and requires the Board to adopt rules to prohibit the suspension or revocation of a license issued by the Board 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.

*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 September 3, 2019. Comments should be directed to:

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

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:

September 13, 2019  
9 to 10 a.m.

Board Office, Suite B  
400 S.W. Eighth Street  
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 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:

Adopt the following new rule 655—4.9(17A,147,152,272C):

**655—4.9(17A,147,152,272C) Prohibited grounds for discipline.** The board shall not suspend or revoke the license of 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.

**ARC 4598C**

**NURSING BOARD[655]****Notice of Intended Action****Proposing rule making related to removal of licensure sanctions for nonpayment of student debt and providing an opportunity for public comment**

The Board of Nursing hereby proposes to amend Chapter 17, "Nonpayment of Child Support, Student Loan, or State Debt," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 17A.3 and section 272C.4 as amended by 2019 Iowa Acts, Senate File 304.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 272C.4(10) as amended by 2019 Iowa Acts, Senate File 304.

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

*Purpose and Summary*

2019 Iowa Acts, Senate File 304, amends Iowa Code section 272C.4 and removes the requirement that licensing boards impose discipline against a licensee who has defaulted on a repayment or service obligation under any federal or state educational loan or service-conditional scholarship program. This proposed rule making rescinds the rules in Division II of Chapter 17, which implement the prior requirement that the Board discipline a licensee for nonpayment of a student loan. This proposed rule making also renumbers subsequent rules accordingly.

*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 September 3, 2019. 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:

September 13, 2019  
9 to 10 a.m.

Board Office, Suite B  
400 S.W. Eighth Street  
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 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:

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

- ITEM 1. Amend **655—Chapter 17**, title, as follows:  
NONPAYMENT OF CHILD SUPPORT, ~~STUDENT LOAN~~, OR STATE DEBT
- ITEM 2. Rescind **655—Chapter 17**, Division II heading.
- ITEM 3. Rescind rules **655—17.4(261)** to **655—17.6(261)**.
- ITEM 4. Amend **655—Chapter 17**, Division III heading, as follows:

DIVISION III II  
NONPAYMENT OF STATE DEBT

- ITEM 5. Renumber rules **655—17.7(272D)** to **655—17.9(272D)** as **655—17.4(272D)** to **655—17.6(272D)**.
- ITEM 6. Amend renumbered rule 655—17.4(272D), introductory paragraph, as follows:  
**655—17.4(272D) Definitions.** The following definitions shall apply to rules 17.8(272D) and 17.9(272D) of this chapter 655—17.5(272D) and 655—17.6(272D).
- ITEM 7. Amend **655—Chapter 17**, implementation sentence, as follows:  
These rules are intended to implement Iowa Code chapters 252J, ~~261~~, and 272D.

ARC 4599C

**NURSING BOARD[655]****Notice of Intended Action****Proposing rule making related to expedited licensure for military spouse and providing an opportunity for public comment**

The Board of Nursing hereby proposes to amend Chapter 18, “Military Service and Veteran Reciprocity,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 17A.3 and section 272C.4 as amended by 2019 Iowa Acts, House File 288.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 272C.4 as amended by 2019 Iowa Acts, House File 288.

*Purpose and Summary*

2019 Iowa Acts, House File 288, creates new Iowa Code section 272C.4(12A), which requires the Board to establish procedures by January 1, 2020, to expedite the licensing of an individual who is licensed as a nurse in another state and who is the spouse of an active duty member of the military forces of the United States. The proposed amendments to Chapter 18 establish a procedure for providing priority to, and expedited review of, an application for licensure submitted by a military spouse as described above who has a nursing license in another jurisdiction.

*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.

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 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 September 3, 2019. 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:

September 13, 2019  
9 to 10 a.m.

Board Office, Suite B  
400 S.W. Eighth Street  
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 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—18.1(85GA,ch1116), parenthetical implementation statute, as follows:

**655—18.1(~~85GA,ch1116~~ 272C) Definitions.**

ITEM 2. Adopt the following **new** definition of “Spouse” in rule **655—18.1(85GA,ch1116)**:

“*Spouse*” means the spouse of an active duty member of the military forces of the United States.

ITEM 3. Amend rule 655—18.2(85GA,ch1116), parenthetical implementation statute, as follows:

**655—18.2(~~85GA,ch1116~~ 272C) Military education, training, and service credit.**

ITEM 4. Amend rule 655—18.3(85GA,ch1116) as follows:

**655—18.3(~~85GA,ch1116~~ 272C) Veteran and active duty military spouse reciprocity.**

**18.3(1)** A veteran or spouse with a nursing license in another jurisdiction may apply for licensure in Iowa through reciprocity (endorsement) pursuant to 655—Chapter 3. A veteran or spouse must pass any examinations required for licensure to be eligible for licensure through reciprocity. A fully completed

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

application for licensure submitted by a veteran or spouse under this subrule shall be given priority and shall be expedited.

**18.3(2)** Such an application shall contain all of the information required of all applicants for licensure who hold licenses in other jurisdictions and who are applying for licensure by reciprocity, including, but not limited to, completion of all required forms, payment of applicable fees, disclosure of criminal or disciplinary histories, and, if applicable, a criminal history background check. The applicant shall use the same forms as any other applicant for licensure by reciprocity and shall additionally provide such documentation as is reasonably needed to verify the applicant's status as a veteran under Iowa Code section 35.1(2) or as a spouse as defined in rule 655—18.1(272C).

**18.3(3)** Upon receipt of a fully completed licensure application, the board shall promptly determine if the professional or occupational licensing requirements of the jurisdiction where the ~~veteran~~ applicant is licensed are substantially equivalent to the licensing requirements in Iowa. The board shall make this determination based on information supplied by the applicant and such additional information as the board may acquire from the applicable jurisdiction. The board may consider the following factors in determining substantial equivalence: scope of practice, education and coursework, degree requirements, postgraduate experience, and examinations required for licensure.

**18.3(4)** The board shall promptly grant a license to the ~~veteran~~ applicant if the ~~veteran~~ applicant is licensed in the same or similar profession in another jurisdiction whose licensure requirements are substantially equivalent to those required in Iowa, unless the applicant is ineligible for licensure based on other grounds, for example, the applicant's disciplinary or criminal background.

**18.3(5)** If the board determines that the licensing requirements in the jurisdiction in which the ~~veteran~~ applicant is licensed are not substantially equivalent to those required in Iowa, the board shall promptly inform the ~~veteran~~ applicant of the additional experience, education, or examinations required for licensure in Iowa. Unless the applicant is ineligible for licensure based on other grounds, such as disciplinary or criminal background, the following shall apply:

*a.* If a ~~veteran~~ applicant has not passed the required examination(s) for licensure, the ~~veteran~~ applicant may not be issued a provisional license, but may request that the licensure application be placed in pending status for up to one year or as mutually agreed to provide the ~~veteran~~ applicant with the opportunity to satisfy the examination requirements.

*b.* If additional experience or education is required in order for the applicant's qualifications to be considered substantially equivalent, the applicant may request that the board issue a provisional license for a specified period of time during which the applicant will successfully complete the necessary experience or education. The board shall issue a provisional license for a specified period of time upon such conditions as the board deems reasonably necessary to protect the health, welfare or safety of the public unless the board determines that the deficiency is of a character that the public health, welfare or safety will be adversely affected if a provisional license is granted.

*c.* If a request for a provisional license is denied, the board shall issue an order fully explaining the decision and shall inform the applicant of the steps the applicant may take in order to receive a provisional license.

*d.* If a provisional license is issued, the application for full licensure shall be placed in pending status until the necessary experience or education has been successfully completed or the provisional license expires, whichever occurs first. The board may extend a provisional license on a case-by-case basis for good cause.

**18.3(6)** A veteran or spouse who is aggrieved by the board's decision to deny an application for a reciprocal license or a provisional license or is aggrieved by the terms under which a provisional license will be granted may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case shall be made within 30 days of issuance of the board's decision. No fees or costs shall be assessed against the ~~veteran~~ applicant in connection with a contested case conducted pursuant to this subrule.

NURSING BOARD[655](cont'd)

ITEM 5. Amend **655—Chapter 18**, implementation sentence, as follows:  
These rules are intended to implement 2014 Iowa Acts, chapter 1116, division VI Iowa Code section 272C.4.

**ARC 4591C**

## **PHARMACY BOARD[657]**

### **Notice of Intended Action**

#### **Proposing rule making related to abuse identification and reporting training and providing an opportunity for public comment**

The Board of Pharmacy hereby proposes to amend Chapter 2, “Pharmacist Licenses,” 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 731.

#### *Purpose and Summary*

During the 2019 Legislative Session, changes were made to the Iowa Code relating to training of health care professionals who qualify as mandatory reporters. The proposed amendments reflect the changes made to the Iowa Code.

#### *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 September 3, 2019. 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



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

subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

*Review by Administrative Rules Review Committee*

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

The following rule-making action is proposed:

Amend rule 657—2.16(235B,272C) as follows:

**657—2.16(235B,272C) Mandatory training for identifying and reporting abuse.** “Mandatory training for identifying and reporting abuse” means training on identifying and reporting child abuse or dependent adult abuse required of a pharmacist who qualifies as a mandatory abuse reporter under Iowa Code section 232.69 or 235B.16. A licensed pharmacist shall be responsible for determining whether or not, by virtue of the pharmacist's practice or employment, the pharmacist qualifies as a mandatory abuse reporter under either or both of these sections.

**2.16(1) Training required.** A licensed pharmacist who qualifies as a mandatory abuse reporter shall have completed ~~approved~~ abuse education training provided by the Iowa department of human services as follows.

*a. Mandatory reporter of child abuse.* A pharmacist who qualifies as a mandatory reporter of child abuse shall have completed two hours of training in child abuse identification and reporting within ~~the previous five years~~ six months of initial employment or self-employment. The pharmacist shall complete at least one hour of additional child abuse identification and reporting training every three years.

*b. Mandatory reporter of dependent adult abuse.* A pharmacist who qualifies as a mandatory reporter of dependent adult abuse shall have completed two hours of training in dependent adult abuse identification and reporting within ~~the previous five years~~ six months of initial employment or self-employment. The pharmacist shall complete at least one hour of additional dependent adult abuse identification and reporting training every three years.

*c. Mandatory reporter of child abuse and dependent adult abuse.* A pharmacist who qualifies as a mandatory reporter of child abuse and dependent adult abuse may complete separate courses pursuant to paragraphs “a” and “b” or may complete, within the previous five years, one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse.

**2.16(2)** No change.

**2.16(3) Mandatory training records.** A pharmacist subject to the requirements of this rule shall maintain documentation of completion of the mandatory training for identifying and reporting abuse, including dates, subjects, duration of programs, and proof of participation, for ~~five~~ three years following the date of the training. The board may audit this information at any time within the ~~five-year~~ three-year period.

**2.16(4) Approved programs.** “Approved abuse education training” means a training program using a curriculum approved by the abuse education review panel of the Iowa department of public health.

**ARC 4592C****PHARMACY BOARD[657]****Notice of Intended Action****Proposing rule making related to synthetic cannabinoids and Schedule IV substances and providing an opportunity for public comment**

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

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 124.201 and 124.301.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 124.201 and 124.301.

*Purpose and Summary*

The proposed amendments temporarily place five synthetic cannabinoids into Schedule I as well as two substances into Schedule IV of the Iowa Uniform Controlled Substances Act in response to action taken by the federal Drug Enforcement Administration.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

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

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on September 3, 2019. 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.

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

*Review by Administrative Rules Review Committee*

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

The following rule-making actions are proposed:

ITEM 1. Rescind paragraphs **10.39(2)“t”** to **“ae.”**

ITEM 2. Adopt the following **new** paragraphs **10.39(2)“at”** to **“ax”**:

*at.* Ethyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate, its optical, positional, and geometric isomers, salts and salts of isomers. Other name: 5F-EDMB-PINACA.

*au.* Methyl 2-(1-(5-fluoropentyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate, its optical, positional, and geometric isomers, salts and salts of isomers. Other name: 5F-MDMB-PICA.

*av.* N-(adamantan-1-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts and salts of isomers. Other names: FUB-AKB48, FUB-APINACA, AKB48 N-(4-FLUOROBENZYL).

*aw.* 1-(5-fluoropentyl)-N-(2-phenylpropan-2-yl)-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts and salts of isomers. Other names: 5F-CUMYL-PINACA, SGT-25.

*ax.* (1-(4-fluorobenzyl)-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl) methanone, its optical, positional, and geometric isomers, salts and salts of isomers. Other name: FUB-144.

ITEM 3. Adopt the following **new** subrule 10.39(6):

**10.39(6)** Amend Iowa Code section 124.210(3) by adding the following new paragraph **“bd”**:

*bd.* Brexanolone.

ITEM 4. Adopt the following **new** subrule 10.39(7):

**10.39(7)** Amend Iowa Code section 124.210(6) by adding the following new paragraph **“m”**:

*m.* Solriamfetol (2-amino-3-phenylpropyl car-bamate; benzenepropanol, beta-amino-, carbamate (ester)).

**ARC 4593C**

## **PHARMACY BOARD[657]**

### **Notice of Intended Action**

#### **Proposing rule making related to telepharmacy practice and providing an opportunity for public comment**

The Board of Pharmacy hereby proposes to amend Chapter 13, “Telepharmacy Practice,” Iowa Administrative Code.

#### *Legal Authority for Rule Making*

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

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 155A.13.

#### *Purpose and Summary*

The proposed amendments would allow the pharmacist in charge of a managing pharmacy to designate another pharmacist to serve as pharmacist in charge of a telepharmacy site, require the

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

pharmacist in charge of the telepharmacy site to be employed by the managing pharmacy and to be identified on the pharmacy license of the telepharmacy site, allow training of telepharmacy technicians at the managing pharmacy or at another pharmacy which uses the same audiovisual technology system, and require the display at the telepharmacy site of the original license to practice pharmacy in Iowa of the telepharmacy site pharmacist in charge and the current license renewal certificates of the telepharmacy site pharmacist in charge and of any pharmacist who may provide counseling to patients at the telepharmacy site.

*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 September 3, 2019. 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—13.4(155A) as follows:

**657—13.4(155A) Responsible parties.** The responsibilities identified and assigned pursuant to rule 657—8.3(155A) shall be assigned, as appropriate, to the managing pharmacy and the telepharmacy site, by and through their respective owners or license holders, to the pharmacist in charge of each respective pharmacy and to staff pharmacists, including verifying pharmacists. A telepharmacy technician shall

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

share responsibility with the pharmacist in charge of the telepharmacy site, the telepharmacy site, and the verifying pharmacist, as assigned in rule 657—8.3(155A), for all functions assigned to and performed by the telepharmacy technician.

ITEM 2. Amend subrule 13.8(2) as follows:

**13.8(2) Pharmacist in charge.** The pharmacist in charge of the telepharmacy site shall be the pharmacist in charge of the managing pharmacy shall designate a pharmacist in charge of the telepharmacy site pursuant to subrule 13.9(3).

ITEM 3. Adopt the following **new** subrule 13.8(11):

**13.8(11) Display of pharmacist license.** A telepharmacy site shall display, in a position visible to the public, the original license to practice pharmacy in Iowa of the pharmacist in charge of the telepharmacy site. The telepharmacy site shall display, in a position visible to the public, the current license renewal certificate, which may be a photocopy of an original renewal certificate, of the pharmacist in charge of the telepharmacy site and of each pharmacist who may provide patient counseling to patients at the telepharmacy site. A pharmacist working on site while the telepharmacy site is open to the public shall display an original license and current license renewal certificate pursuant to 657—subrule 8.4(1).

ITEM 4. Amend subrules 13.9(3) to 13.9(5) as follows:

**13.9(3) Pharmacist in charge.** The pharmacist in charge of the managing pharmacy shall ~~be the~~ designate a pharmacist in charge of the telepharmacy site, who will be identified on the license of the telepharmacy site. The pharmacist in charge of the telepharmacy site shall be employed by the managing pharmacy. Nothing in this subrule shall prohibit the pharmacist in charge of the managing pharmacy from simultaneously serving as the pharmacist in charge of the telepharmacy site.

**13.9(4) Adequate audiovisual connection.** The pharmacist in charge of the managing pharmacy shall ensure adequate audiovisual connection with the telepharmacy site during all periods when the telepharmacy site is open for business including ensuring confidentiality of communications in compliance with state and federal confidentiality laws.

**13.9(5) Monthly inspection.** The pharmacist in charge of the telepharmacy site or delegate pharmacist shall be responsible for performing a monthly inspection of the telepharmacy site. Inspection reports shall be signed by the individual pharmacist who performed the inspection. Inspection records and reports shall be maintained at the telepharmacy site for two years following the date of the inspection. A copy of the inspection report shall be provided to and maintained at the managing pharmacy. The monthly inspection shall include, but may not be limited to, the following:

a. to j. No change.

ITEM 5. Amend subrule 13.11(1) as follows:

**13.11(1) Practice experience.** Before practicing in a telepharmacy site, a telepharmacy technician shall have completed a minimum of 2,000 hours of practice experience as a certified pharmacy technician, at least 1,000 hours of which shall be practicing in an Iowa-licensed pharmacy and 160 hours of which shall be practicing in a managing pharmacy, at another pharmacy which uses the same audiovisual technology system, or at the telepharmacy site under the direct supervision of an onsite pharmacist.

ITEM 6. Amend subrules 13.16(3) and 13.16(6) as follows:

**13.16(3) Identification of managing pharmacy.** The telepharmacy site application shall include identification of the managing pharmacy, including pharmacy name, license number, address, telephone number, and pharmacist in charge, and; a statement from the managing pharmacy or pharmacist in charge indicating that the managing pharmacy has executed a written agreement to provide the required services and oversight to the telepharmacy site; and a statement from the pharmacist in charge of the managing pharmacy designating the pharmacist in charge of the telepharmacy site pursuant to subrule 13.9(3).

**13.16(6) Key personnel.** The telepharmacy site application shall identify key personnel including the pharmacist in charge of the managing pharmacy ~~and, the pharmacist in charge of the telepharmacy site,~~ and the telepharmacy technician or technicians at the telepharmacy site. Identification shall include the names, the license or registration numbers, and the titles of the key personnel. Telepharmacy technician

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

identification shall also include a copy of the telepharmacy technician's current national certification or other verification of the telepharmacy technician's current national certification.

ITEM 7. Amend rule 657—13.17(124,155A) as follows:

**657—13.17(124,155A) Changes to telepharmacy site or managing pharmacy.** Except as specifically provided by these rules, a change to a telepharmacy site shall require compliance with the licensure and notification requirements of the specific type of change identified in 657—subrules 8.35(6) and 8.35(7). A change affecting the CSA registration shall comply with the appropriate requirements of rule 657—10.11(124) 657—10.9(124).

**13.17(1) Change of pharmacist in charge.** A change of pharmacist in charge at either the managing pharmacy or telepharmacy site shall require submission of a pharmacy license application for the managing pharmacy and the telepharmacy site respective pharmacy location as provided by 657—subrule 8.35(6) and rule 657—13.16(124,155A).

**13.17(2) and 13.17(3)** No change.

ITEM 8. Amend subrule 13.21(1) as follows:

**13.21(1) Minimum requirements.** Policies and procedures shall define the frequency of review, and written documentation of review by the respective pharmacist in charge shall be maintained. Policies and procedures shall address, at a minimum, the following:

*a. to k.* No change.

**ARC 4604C****SCHOOL BUDGET REVIEW COMMITTEE[289]****Notice of Intended Action****Proposing rule making related to school district requests for modified supplemental amount and providing an opportunity for public comment**

The School Budget Review Committee (SBRC) hereby proposes to amend Chapter 1, "Organization and Administrative Procedures," Chapter 4, "Agency Procedures for Rule Making," and Chapter 6, "Duties and Operational Procedures," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 257.30.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 257.30, 257.31, and 257.40.

*Purpose and Summary*

The proposed amendments reflect changes brought about during the 2018 Legislative Session to the application and approval processes regarding Iowa school district requests for modified supplemental amount for programs for at-risk students, secondary students who attend alternative programs and alternative schools, and returning dropouts and dropout prevention. The amendments also reflect changes in terminology and SBRC procedures.

*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.

## SCHOOL BUDGET REVIEW COMMITTEE[289](cont'd)

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the SBRC for a waiver of the discretionary provisions, if any, pursuant to 289—Chapter 8.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the SBRC no later than 4:30 p.m. on September 3, 2019. Comments should be directed to:

Tom Cooley  
School Budget Review Committee  
Grimes State Office Building, Second Floor  
400 E. 14th Street  
Des Moines, Iowa 50319  
Phone: 515.725.1120  
Email: [tom.cooley@iowa.gov](mailto:tom.cooley@iowa.gov)

*Public Hearing*

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

September 3, 2019  
10 to 11 a.m.

State Board Room  
Grimes State Office Building, Second Floor  
400 E. 14th Street  
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 of Education and advise of specific needs by calling 515.281.5295.

*Review by Administrative Rules Review Committee*

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

The following rule-making actions are proposed:

ITEM 1. Amend subrule 1.4(1) as follows:

**1.4(1) Number.** The committee shall meet and hold hearings each year and shall continue in session until it has reviewed budgets of school districts and completed the other duties as found in ~~2009 Iowa Code Supplement sections 257.30 and 257.31 as amended by 2010 Iowa Acts, House File 2030, and Iowa Code sections through~~ 257.32 and 260C.18B. A minimum of three sessions to hold hearings shall be scheduled each fiscal year and shall be held during the months of October, December, and March. Revisions to these regularly scheduled sessions may be made if there are scheduling conflicts, if the SBRC determines that additional sessions are necessary, or if there are not sufficient hearing requests to hold a session.

## SCHOOL BUDGET REVIEW COMMITTEE[289](cont'd)

ITEM 2. Amend rule 289—4.6(17A), catchwords, as follows:

**289—4.6(17A) Regulatory flexibility analysis.**

ITEM 3. Amend rule 289—6.1(257), definition of “Modified allowable growth,” as follows:

“~~Modified allowable growth supplemental amount~~” means an amount expressed in dollars which is added to the district’s authorized budget.

ITEM 4. Amend subrule 6.3(3) as follows:

**6.3(3) Material for the hearing.**

a. Any information requested by the committee must be provided within the timelines requested by the committee in order for the school corporation to be included on the schedule for a hearing. One ~~original and 11 copies of written material, and one~~ full set of the materials provided electronically in a format that can be cut and pasted into official documentation, shall be submitted at least four weeks prior to the scheduled hearing. The SBRC chairperson may set an earlier due date for information if necessary for adequate review based on the quantity or complexity of hearings. If a school corporation’s exhibits for a hearing the school corporation has requested are not received timely, the school corporation’s hearing may be postponed to the next following regularly scheduled session. Where applicable, the committee will provide forms or checklists to school corporations to obtain uniform and comparable data for determining committee decisions.

b. School corporations shall include in their materials for the hearing a copy of the board minutes that include the official action taken by the applicable school corporation board on the subject of the hearing and authorizing the school corporation’s administrative officials to request modified ~~allowable growth supplemental amount~~ or use of the unexpended fund balance.

c. to g. No change.

h. Applications for modified ~~allowable growth supplemental amount~~ for increased certified enrollment over the prior year’s enrollment, applications for modified ~~allowable growth supplemental amount~~ to pay tuition costs for open-enrolled-out students who were not enrolled in the district on the certified enrollment date in the prior year, and applications for modified ~~allowable growth supplemental amount~~ for excess costs of instructional programs for limited English proficient students must be received no later than December 1 of the budget year.

i. Applications for modified ~~allowable growth supplemental amount~~ for ~~returning dropout and dropout prevention programs adopted program plans for at-risk students, secondary students who attend alternative programs and alternative schools, and returning dropouts and dropout prevention~~ shall be filed by ~~December~~ January 15 of the base year.

j. No change.

k. Applications described in paragraphs 6.3(3) “g” and “i” that are not timely filed will not be considered for supplemental aid or for modified ~~allowable growth supplemental amount~~. Applications described in paragraphs 6.3(3) “h” and “j” that are not timely filed may be considered at the discretion of the SBRC.

ITEM 5. Amend subrule 6.3(7) as follows:

**6.3(7) Routine action by the committee.** School corporations do not need to be represented when action under consideration is for such items as cash reserve levies, ~~returning dropout/dropout prevention programs adopted program plans for at-risk students, secondary students who attend alternative programs and alternative schools, and returning dropouts and dropout prevention~~, special education balances or other situations which are considered class actions as determined by the SBRC.

ITEM 6. Amend subrule 6.3(8) as follows:

**6.3(8) Basic policies.** The SBRC has established the following basic policies that it shall consider in rendering its decisions.

a. Modified ~~allowable growth supplemental amount~~ requests shall be considered only for costs up through the budget year, except where the Iowa Code expressly authorizes modified ~~allowable growth supplemental amount~~ to be granted for a subsequent year.



## SCHOOL BUDGET REVIEW COMMITTEE[289](cont'd)

- b.* Modified ~~allowable-growth~~ supplemental amount requests shall be considered only for expenditures permitted from the general fund pursuant to the Iowa Code.
- c.* Modified ~~allowable-growth~~ supplemental amount requests may be brought before the committee for unusual, unique or unforeseeable circumstances.
- d.* Modified ~~allowable-growth~~ supplemental amount requests shall be considered only to the extent of the actual, documented costs.

ITEM 7. Amend subrule 6.3(10) as follows:

**6.3(10)** *Modified ~~allowable-growth~~ supplemental amount to an AEA.* If the SBRC approves modified ~~allowable-growth~~ supplemental amount for special education support services, approves an additional amount to be added to district costs for media services or educational services, or approves modified ~~allowable-growth~~ supplemental amount for unusual circumstances, the amount shall be included in the budget of each district in the AEA for the subsequent budget year in the proportion that the appropriate enrollment of each district in the AEA bears to the total enrollment of all districts in the AEA.

ITEM 8. Amend **289—Chapter 6**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 257.30, 257.31, 257.32, 257.40, and 298.10 and chapter 260C.

**ARC 4606C****CHIEF INFORMATION OFFICER, OFFICE OF THE[129]****Adopted and Filed****Rule making related to broadband infrastructure and grants**

The Office of the Chief Information Officer (Office) hereby amends 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 adopted under the authority provided in Iowa Code sections 8B.4(5) and 8B.10(2) and sections 8B.11(8) and 427.1(40) as amended by 2019 Iowa Acts, House File 772.

*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) as amended by 2019 Iowa Acts, House File 772.

*Purpose and Summary*

These amendments interpret and implement 2019 Iowa Acts, House File 772, the Empower Rural Iowa Act, which authorizes the continued operation of broadband programs currently administered by the Office through 2025, and implement several policy changes and requirements related to these programs. In addition, these amendments clarify aspects of the broadband programs identified as requiring clarification following the Office’s administration of these programs over the past several years and make several clerical and ministerial updates which were identified throughout the drafting process.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 19, 2019, as **ARC 4505C**. A public hearing was held on July 10, 2019, at 10 a.m. in the OCIO Innovation Lab, Room 12, Hoover State Office Building, Level A, Des Moines, Iowa. No one attended the public hearing. The Iowa Communications Alliance submitted comments stating, “The members of the Alliance have reviewed the proposed rulemaking and we support the proposed changes.” No other comments were received. One change from the Notice was made to correct a verb tense in Item 14.

*Adoption of Rule Making*

This rule making was adopted by the Office on July 24, 2019.

*Fiscal Impact*

The Office will use existing budget and resources to implement these rules, including specific appropriations made during the 2019 Legislative Session for such purposes.

*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.

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### *Waivers*

As it relates to the property tax program, an agencywide waiver provision has not yet been adopted by the Office but will be adopted in a subsequent rule making. As they relate to the broadband grants program, waivers will be handled in accordance with the terms of the Notice of Funding Availability, similar to the manner in which waivers for solicitations in the procurement context are handled.

### *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 18, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend rule 129—20.1(8B,427) as follows:

**129—20.1(8B,427) Definitions.** ~~For purposes of this chapter, the following definitions shall govern. The definitions in Iowa Code section 8B.1 as amended by 2019 Iowa Acts, House File 772, 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 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” means a high-speed, high-capacity electronic transmission medium, including fixed wireless and mobile wireless mediums, that can carry data signals from independent network sources by establishing different bandwidth channels and that is commonly used to deliver Internet services to the public.~~

~~“Broadband infrastructure” means the physical infrastructure used for the transmission of data that provides broadband services. “Broadband infrastructure” does not include land, buildings, structures, improvements, or equipment not directly used in the transmission of data via broadband.~~

~~“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.~~

~~“Communications service provider” means a service provider that provides broadband service.~~

~~“Crop operation” means a commercial enterprise where a crop is maintained on the property of the commercial enterprise.~~

~~“Date of commencement” means the date first occurring after July 1, 2015, and before July 1, 2020, in which broadband infrastructure used in a certified project becomes property taxed as real property as determined by Iowa Code section 427A.1.~~

~~“Date of completion” or “completed” means the date that a communications service provider offers or facilitates broadband service delivered at or above 25 megabits per second of download speed and 3 megabits per second of upload speed in a targeted service area.~~

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*“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.

*“Is being performed”* includes but is not limited to the planning, preparation, design, architecture, labor, construction, building, and furnishing of new physical infrastructure used for the transmission of data that provides broadband services.

*“Office”* means the office of the chief information officer authorized by Iowa Code chapter 8B.

*“Targeted service area”* means a U.S. Census Bureau census block located in this state, including any crop operation located within the census block, within which no communications service provider offers or facilitates broadband service at or above 25 megabits per second of download speed and 3 megabits per second of upload speed as of July 1, 2015.

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; implements Iowa Code section 427.1(40) as amended by 2019 Iowa Acts, House File 772; and applies to the office’s determinations of whether a census block is a targeted service area and to persons who wish to challenge the office’s finding on whether a census 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.** To determine whether a communications service provider offers or facilitates broadband service in a particular census block at or above 25 megabits per second of download speed and 3 megabits per second of upload speed as of July 1, 2015 the download and upload speeds specified in the definition of targeted service area as of the as of date, the office utilized utilizes fixed broadband availability maps and corresponding data sources made available by Connect Iowa, LLC, a subsidiary of Connected Nation, Inc the Federal Communications Commission (FCC) online, which as of September 18, 2019, 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 were 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).

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 census blocks. Based on the maps and data sources referenced in rule 129—20.3(8B,427), the statewide map will designate census blocks within which, as of July 1, 2015 the as of date, no communications service provider offered or facilitated broadband service to the public at or above 25 megabits per second of download speed and 3 megabits per second of upload speed the download and upload speeds specified in the definition of targeted service area. This statewide map shall be available published online at <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, 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.

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**20.4(3)** As of ~~November 30, 2016~~ 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 census 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 census 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 census block final and no longer subject to challenge. A party's failure to challenge the office's determination and finding of whether a particular census 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 subrule 20.5(3) as follows:

**20.5(3)** *Notification of and input from affected persons or parties.* Within ~~40~~ ten calendar days of receipt of a notice of appeal, the office shall provide notification to any affected persons or parties by posting the notice of appeal at ~~<http://ocio.iowa.gov/>~~ [ocio.iowa.gov/broadband](http://ocio.iowa.gov/broadband). From the date of such posting, any affected persons or parties will have 20 calendar days to submit evidence and information in support of, or in opposition to, such appeal. Except to the extent not feasible, any such evidence and information shall be submitted by ~~electronic mail (e-mail)~~ email to [cio@iowa.gov](mailto:cio@iowa.gov). To the extent electronic submission is not feasible, such evidence and information shall be mailed to: Office of the Chief Information Officer, Hoover State Office Building, Level B, 1305 East Walnut Street, Des Moines, Iowa 50319. If such evidence or information is submitted by mail, the evidence or information shall be accompanied by a written explanation of why electronic submission was not feasible.

ITEM 6. Amend subrule 20.5(5) as follows:

**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 ~~block~~ 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 originally utilized in rule 129—20.4(8B,427), and any other information deemed relevant by the office. The final agency decision will be posted online at ~~<http://ocio.iowa.gov/>~~ [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).

ITEM 7. Amend subparagraph **20.5(7)“a”(1)** as follows:

(1) Fully complete and submit to the office Form 22 (available online at <http://ocio.iowa.gov/> [ocio.iowa.gov/broadband](http://ocio.iowa.gov/broadband));

ITEM 8. Adopt the following new subrule 20.5(8):

**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

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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 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 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 block(s) which identify the specific download and upload speeds provided or received as of the as of date.

ITEM 9. Amend 129—Chapter 20, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 8B.1, 8B.10, ~~47A.3~~, and 427.1(40) as amended by 2019 Iowa Acts, House File 772.

ITEM 10. 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 is ~~being performed or was completed in a targeted service area, and that the broadband infrastructure installed facilitates broadband service at or above 25 megabits per second of download speed and 3 megabits per second of upload speed~~ will facilitate broadband service at or above the download and upload speeds specified in the definition of targeted service area.

ITEM 11. 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 ~~http://ocio.iowa.gov/~~ 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. The communications service provider's legal and business ~~name~~ name(s) and ~~address~~ address(es) and the name, address, telephone number, and ~~e-mail~~ email address of the person authorized by the communications service provider to respond to inquiries regarding the application for certification;

2. The census 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 (i.e., the targeted service ~~area~~ area(s) in which the installation of the broadband infrastructure is ~~being performed or was completed~~ will facilitate broadband service at or above the download and upload speeds specified in the definition of targeted service area);

3. A description and overview of the specific technologies to be deployed (e.g., fixed wireless) that will facilitate broadband service at or above the download and upload speeds specified in the definition of targeted service area;

~~3.~~ 4. Attestation that the broadband infrastructure installed in the targeted service area(s) facilitates ~~will facilitate~~ broadband service at or above ~~25 megabits per second of download speed and 3 megabits per second of upload speed~~ the download and upload speeds specified in the definition of targeted service area; and

~~4.~~ 5. Any other information as requested in the application.

ITEM 12. Amend rule 129—21.4(8B,427) as follows:

**129—21.4(8B,427) Time of filing.** Applications for certification must be received by the office at least ten days prior to the closure of the next applicable assessment deadline to be considered by the office for purposes of that reporting cycle. If the office does not receive an application within that time frame, the office may deny the application or consider the application as part of the next assessment cycle. Except

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as otherwise authorized by the office, an application for certification shall be deemed filed on the date of its ~~online submission pursuant to rule 129—21.3(8B,427)~~ actual receipt by the office. Notwithstanding the foregoing, except as otherwise authorized by the office, when an application for certification is filed during an open 20-day appeal period specified in 129—subrule 20.5(1) following the publication of an updated statewide map in accordance with rule 129—20.4(8B,427), an application for certification will not be deemed filed prior to the expiration of the initial 20-day appeal period specified in 129—subrule 20.5(1).

ITEM 13. Amend rule 129—21.5(8B,427) as follows:

**129—21.5(8B,427) Notice of decision and issuance of certificate.** ~~The~~ Following the timely filing of an application for certification and before the closure of the next assessment cycle, the office shall notify the communications service provider by electronic means of its decision regarding an the application for certification within 30 days of the filing of an application and, if appropriate, shall issue a certification by electronic means within that same time frame. If the decision is to deny the application or part of the application, such notice shall include a concise statement of the office's reasons for such denial, in whole or in part. A determination by the office to deny an application for certification, in whole or in part, may be appealed pursuant to 129—Chapter 6.

ITEM 14. Amend rule 129—21.6(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 census 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 census block(s) in which the installation ~~is being performed or was completed~~ will facilitate broadband service are targeted service area(s), that the broadband infrastructure ~~installed facilitates~~ will facilitate broadband service at or above ~~25 megabits per second of download speed and 3 megabits per second of upload speed~~ 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.

ITEM 15. Amend rule 129—21.8(8B,427) as follows:

**129—21.8(8B,427) Certification of completion and field testing.** To the extent applicable, after an installation of broadband infrastructure certified by the office is fully installed in a targeted service area, the communications service provider for which a certification was issued must certify to the office that such installation facilitates broadband service at or above ~~25 megabits per second of download speed and 3 megabits per second of upload speed~~ the download and upload speeds specified in the definition of targeted service area. The office may, in its discretion, conduct field tests for compliance with the requirements of Iowa Code section 427.1(40)“b” at any time after broadband service is available in a targeted service area. Such field tests may include but not be limited to speed tests from any location in a targeted service area in which the project was deployed or, in the case of wireline installations, the communications service provider's network operation center or central office. As applicable, noncompliance may be reported to the attorney general, the department of revenue, or applicable county board of supervisors.

ITEM 16. Amend **129—Chapter 21**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 8B.1, ~~8B.3, 8B.4(15), 17A.3,~~ and 427.1(40) as amended by 2019 Iowa Acts, House File 772.

ITEM 17. 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, and rule 129—20.1(8B,427) shall apply to this chapter. In addition, for purposes of this chapter, the following definitions shall ~~also~~ apply:

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“*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 in one or more targeted service areas. ~~Except in limited circumstances otherwise permitted herein, a project may not be comprised of, in whole or in part, census blocks that are not targeted service areas.~~

ITEM 18. 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, 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 ~~targeted service areas in the state of Iowa~~ unserved and underserved areas in the state, leveraging federal funds and public and private partnerships where possible, by incentivizing the installation of broadband infrastructure by communications service providers therein 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 as amended by 2019 Iowa Acts, House File 772, and with this chapter.

ITEM 19. Amend subrule 22.4(1) 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 ~~at or above 25 megabits per second of download speed and 3 megabits per second of upload speed~~ that facilitates broadband service in targeted service areas at or above the download and upload speeds specified in the definition of targeted service area. Applications shall be made and submitted in accordance with the terms of these rules and the NOFA.

ITEM 20. Amend subrule 22.4(2) as follows:

**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.* The communications service provider’s legal and business ~~name~~ name(s) and ~~address~~ address(es);

*b.* The name, address, telephone number, and email address of the person authorized by the communications service provider to respond to inquiries regarding the application;

*c.* The census 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 ~~oeef~~ facilitate broadband service at or above the download and upload speeds specified in the definition of targeted service area);

*d.* Attestation that the broadband infrastructure installed ~~in the targeted service area(s)~~ will facilitate broadband service at or above ~~25 megabits per second of download speed and 3 megabits per second of upload speed~~ the download and upload speeds specified in the definition of targeted service area;

*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 in the targeted service areas forming the basis of the project;



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

~~e. f.~~ An anticipated project completion date, which shall not exceed five years from the date the NOFA is issued. An applicant's anticipated project completion date shall be used to determine whether a grantee's failure to complete a project in a timely manner warrants a finding of noncompliance for purposes of subparagraph 22.6(4) "b"(2).

ITEM 21. Rescind and reserve subrule **22.4(5)**.

ITEM 22. Amend subrule 22.5(1) as follows:

**22.5(1) *Optional period* Period for public comment and validation process.**

a. Following the expiration of the deadline for the receipt of applications stated in the NOFA, the office ~~may, in its sole discretion, will~~ open a period for public comment as it relates to such applications ~~through the state of Iowa's public comment website: comment.iowa.gov. If the office elects to solicit public comment pursuant to this rule, any~~ Any member of the public will be permitted to submit comments regarding applications received by the office through the means specified in the NOFA.

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. 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.

(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.

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. 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, and rules 129—20.3(8B,427) and 129—20.4(8B,427).

ITEM 23. 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, ~~if any,~~ 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 solicited/received~~ 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.

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):

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

(1) The relative need for broadband infrastructure in the area and the existing broadband service speeds, including whether the project serves a rural area(s). Existing broadband service speeds may be determined by reference to the statewide map referenced in rule 129—20.4(8B,427), although the office may also take into consideration factual information received through the validation process pursuant to and in accordance with Iowa Code section 8B.11(3) as amended by 2019 Iowa Acts, House File 772, and paragraph 22.5(1)“b.”

(2) The applicant’s total proposed budget for the project, including the amount or percentage of local or federal matching funds, if any, any funding obligations shared between public and private entities, and the percentage of funding provided directly from the applicant.

(3) The relative download and upload speeds of proposed projects for all the applicants.

(4) The specific product attributes resulting from the proposed project, including technologies that provide higher qualities of service, such as service levels, latency, and other service attributes as determined by the office.

~~(2)~~ (5) The percentage of the homes, schools, and businesses in the targeted service area(s) forming the basis of the project that will be provided access to broadband service at or above 25 megabits per second of download speed and 3 megabits per second of upload speed the download and upload speeds specified in the definition of targeted service area as a result of the project. The number of homes, schools, and businesses in a targeted service area may 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 this factor is the means by which the office ensures underserved areas within targeted service areas are, to the extent possible, reduced or eliminated.

~~(3)~~ (6) The geographic diversity of the project areas of all applicants.

~~(4)~~ (7) The economic impact of the project will have on to the area.

~~(5) The applicant’s total proposed budget for the project, including the amount or percentage of local match, if any. For purposes of this chapter, “local match” shall include any private and public sources of funding available to the applicant and to be utilized in connection with the applicant’s proposed project.~~

~~(6)~~ (8) Any other factors deemed relevant by the office as stated in the NOFA.

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

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

(2) Make an award that exceeds 15 percent of any communications service provider’s total estimated allowable project costs for a proposed installation of broadband infrastructure.

ITEM 24. Amend subrule 22.6(2) 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 within each targeted service area forming the basis of the project have access to broadband service at or above 25 megabits per second of download speed and 3 megabits per second of upload speed the download and upload speeds specified in the definition of targeted service area as a result of the project.

ITEM 25. Amend subparagraph **22.6(3)“a”(1)** as follows:

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

1. No change.

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

2. Expenditures for broadband infrastructure ~~installed in targeted service areas; or, in the limited circumstances permitted herein, to the extent any expenditures relate to broadband infrastructure installed outside of targeted service areas but which facilitates broadband service at or above 25 megabits per second of download speed and 3 megabits per second of upload speed within targeted service areas underlying the application, only for the proportionate amount that~~ solely to the extent such broadband infrastructure facilitates broadband service at or above 25 megabits per second of download speed and 3 megabits per second of upload speed the download and upload speeds specified in the definition of targeted service area within targeted service areas forming the basis of the project; and

3. No change.

ITEM 26. Amend paragraph **22.6(3)“b”** as follows:

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

(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 ~~was installed in or otherwise~~ facilitates broadband service at or above ~~25 megabits per second of download speed and 3 megabits per second of upload speed~~ the download and upload speeds specified in the definition of targeted service area in each of the applicable targeted service areas identified in the original application, and identify the total number of homes, schools, and businesses 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 ~~25 megabits per second of download speed and 3 megabits per second of upload speed~~ the download and upload speeds specified in the definition of targeted service area 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) Supply the office with updated GIS data in accordance with subrule 22.6(2).

ITEM 27. Amend subparagraph **22.6(3)“c”(3)** as follows:

(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 ~~25 megabits per second of download speed and 3 megabits per second of upload speed~~ the download and upload speeds specified in the definition of targeted service area in applicable targeted service areas identified in the original application. The costs of such certification shall be borne by the grantee.

ITEM 28. Amend subparagraph **22.6(3)“d”(2)** as follows:

(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 ~~25 megabits per second of download speed and 3 megabits per second of upload speed~~ the download and upload speeds specified in the definition of targeted service area in a targeted service area identified in the original application;

2. and 3. No change.

ITEM 29. 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 ~~was not in or that~~ does not facilitate broadband service at or above ~~25 megabits per second of download speed and 3 megabits per second of upload speed~~ the download and upload speeds specified in the definition of targeted service area in a targeted service area identified in the original application;

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

ITEM 30. Adopt the following new rule 129—22.8(8B,427):

**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 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 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.

ITEM 31. Amend **129—Chapter 22**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~section~~ sections 8B.1, 8B.10(1), and 8B.11 as amended by 2019 Iowa Acts, House File 772.

[Filed 7/24/19, effective 9/18/19]

[Published 8/14/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/14/19.

**ARC 4607C**

## **COLLEGE STUDENT AID COMMISSION[283]**

### **Adopted and Filed**

#### **Rule making related to future ready Iowa skilled workforce last-dollar scholarship program**

The College Student Aid Commission hereby adopts new Chapter 15, "Future Ready Iowa Skilled Workforce Last-Dollar Scholarship Program," Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 261.3.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapter 261; 2018 Iowa Acts, House File 2458; and 2019 Iowa Acts, House File 758.

#### *Purpose and Summary*

Chapter 15 implements a new scholarship program enacted in 2018 Iowa Acts, House File 2458, section 12. House File 2458 was enacted with an effective date of July 1, 2019. House File 2458 makes adoption of administrative rules contingent upon the appropriation of funds by the General Assembly. The General Assembly approved an appropriation for the Future Ready Iowa Skilled Workforce Last-Dollar Scholarship Program in 2019 Iowa Acts, House File 758, on April 24, 2019.

## COLLEGE STUDENT AID COMMISSION[283](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 June 5, 2019, as **ARC 4474C**. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Commission on July 19, 2019.

*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, pursuant to 283—Chapter 7.

*Review by Administrative Rules Review Committee*

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

*Effective Date*

This rule making will become effective on September 18, 2019.

The following rule-making action is adopted:

Adopt the following **new** 283—Chapter 15:

## CHAPTER 15

## FUTURE READY IOWA SKILLED WORKFORCE LAST-DOLLAR SCHOLARSHIP PROGRAM

**283—15.1(261) Basis for aid.** The future ready Iowa skilled workforce last-dollar scholarship program provides scholarship assistance to Iowa residents enrolled in eligible programs aligned with high-demand jobs.

**283—15.2(261) Definitions.** As used in this chapter:

“*Approved program*” means a career and technical education program that has a classification of instructional program code approved by the Iowa department of education and that meets similar criteria as established for career and technical education programs approved under 281—Chapter 21.

“*Continuous enrollment*” means an eligible student is enrolled in the fall and spring semesters, or the equivalent, of a single year. Enrollment in the summer semester is not required.

“*Credential*” means a Title IV-eligible program of study leading to a postsecondary certificate, diploma, or degree, conferring no more than an associate degree, which, upon completion, leads directly to employment, and is awarded by an eligible institution and earned in a program of study that leads to a designated high-demand job.

## COLLEGE STUDENT AID COMMISSION[283](cont'd)

*“Eligible program”* means an approved program certified through the selection process described in rule 283—15.5(261).

*“Full-time”* means enrollment in at least 12 hours per semester or the equivalent.

*“Part-time”* means enrollment in at least 6 but less than 12 hours per semester or the equivalent.

*“Semester”* means the fall, spring, or summer term of enrollment at an eligible institution, if the eligible institution is on a semester system, or the equivalent, if the institution is on a system other than a semester system.

**283—15.3(261) Eligible students.**

**15.3(1)** An applicant of the future ready Iowa skilled workforce last-dollar scholarship program must:

- a. Be an Iowa resident as defined in 283—Chapter 10.
  - b. Annually complete the Free Application for Federal Student Aid and any other application required by the college student aid commission by the priority application date specified by the college student aid commission.
  - c. Attend an orientation session, in person or virtually, for the eligible institution.
  - d. Register for courses with the assistance of an advisor, create a graduation plan as required under the eligible program, and participate in available academic advising sessions.
  - e. Enroll in an eligible program at an eligible institution.
  - f. Consider participating in the volunteer mentor program, as defined by the commission on volunteer service.
  - g. Participate in available career advising sessions as required under the eligible program, including creation of a career plan when possible.
  - h. Meet satisfactory academic progress standards as defined by the eligible institution in accordance with the provisions of the federal Higher Education Act of 1965, as amended.
  - i. Receive no more than the equivalent of five full-time awards or eight part-time awards.
  - j. Meet one of the following two conditions:
    - (1) Enroll on a full-time basis during the fall semester immediately following graduation from an Iowa high school or completion of private instruction under Iowa Code chapter 299A, and maintain continuous enrollment on a full-time basis in subsequent terms to receive additional awards. An eligible student may enroll in fewer than 12 semester hours, or the equivalent, in the semester that the credential will be completed if full-time enrollment is not required to complete the program of study.
    - (2) Following receipt of a high school diploma or high school equivalency diploma, and on or after attaining the age of 20, enroll on a full-time or part-time basis in an eligible program at an eligible institution, and maintain continuous enrollment on a full-time or part-time basis in subsequent terms to receive additional awards. Ages are calculated on July 1 prior to the year of enrollment.
- If the student is granted a leave of absence by the eligible institution in accordance with provisions of the federal Higher Education Act of 1965, as amended, the student is not required to maintain continuous enrollment during the period covered by the approved leave of absence.

**15.3(2)** Reserved.

**283—15.4(261) Award amounts.**

**15.4(1)** Awards for eligible students attending Iowa community colleges shall not exceed the remaining tuition and mandatory institutionwide fees after applying federal and state nonrepayable aid. However, awards for eligible students enrolled on a full-time basis shall be at least \$250 per semester or the equivalent amount if the eligible institution operates on a system other than the semester system. Awards for eligible students enrolled on a part-time basis shall be the same amount prorated based on the number of semester hours, or the equivalent, in which the part-time student enrolls.

**15.4(2)** Awards for eligible students attending an accredited private institution or eligible institution, as defined in Iowa Code section 261.9, shall not exceed the average tuition and mandatory institutionwide fees at Iowa community colleges after applying federal and state nonrepayable aid. However, awards for eligible students enrolled on a full-time basis shall be at least \$250 per semester or the equivalent amount

## COLLEGE STUDENT AID COMMISSION[283](cont'd)

if the eligible institution operates on a system other than the semester system. Awards for eligible students enrolled on a part-time basis shall be the same amount prorated based on the number of semester hours, or the equivalent, in which the part-time student enrolls. The average resident tuition and mandatory institutionwide fees will be determined by the Iowa department of education.

**15.4(3)** A student must be enrolled as a regular student in an eligible program that qualifies for Title IV funds. Tuition and institutionwide mandatory fees associated only with coursework required for the student's Title IV-eligible program of study can be used to determine the award amount.

**283—15.5(261) Selection of eligible programs.**

**15.5(1)** An eligible program must lead to a credential aligned with a high-demand job pursuant to 2018 Iowa Acts, House File 2458, section 7, as amended by 2019 Iowa Acts, House File 758, section 12.

**15.5(2)** Before an approved program is considered an eligible program, the department of workforce development and the college student aid commission, in consultation with the Iowa department of education, must jointly certify that the program of study and credential are aligned with a high-demand job.

**283—15.6(261) Criteria for maintaining eligible program status.** The following criteria shall be used in the certification process.

**15.6(1)** By providing student data in a form and manner prescribed by the college student aid commission, the eligible institution shall demonstrate the eligible program, upon completion, leads to employment and not primarily to transfer to baccalaureate degree programs. The college student aid commission, the department of workforce development, and the Iowa department of education shall jointly determine employment outcomes, including wage thresholds.

If an eligible institution fails to demonstrate that an eligible program meets the certified outcomes for three successive years, new eligible students entering the eligible program are prohibited from receiving awards under this rule until such time that the college student aid commission determines that certified outcomes are being met.

**15.6(2)** A list of all programs eligible for the future ready Iowa skilled workforce last-dollar scholarship program, as well as the required courses and the suggested course sequence, must be available in one prominent location on the eligible institution's website.

**283—15.7(261) Awarding of funds.**

**15.7(1)** Eligible students who enroll in eligible programs at eligible institutions may receive awards during a semester.

**15.7(2)** In the first year that funding is appropriated, and in the event that funds available are insufficient to award all eligible students, awards are first prioritized to eligible students who were not enrolled during the previous academic year. Applications will be ranked in date-received order, and students who complete the application by the earliest date will receive awards insofar as funds permit.

**15.7(3)** In the event that funds available are insufficient to award all eligible students, awards are first prioritized to eligible students who received an award during the prior year, according to the date the student completes the application. Applications will be ranked in date-received order, and students who complete the application by the earliest date will receive awards insofar as funds permit.

**15.7(4)** In the event that funds available are sufficient to award all eligible students meeting the conditions specified in subrule 15.7(2) or 15.7(3) but are insufficient to award all eligible students, awards are provided to additional eligible students according to the date the student completes the application. Applications will be ranked in date-received order, and students who complete the application by the earliest date will receive awards insofar as funds permit.

**15.7(5)** If the state workforce development board or a community college district removes a high-demand job from a list created under 2018 Iowa Acts, House File 2458, section 7, as amended by 2019 Iowa Acts, House File 758, section 12, an eligible student who received an award in a program of study aligned with that high-demand job shall continue to receive the award as long as the student continues to meet all other eligibility criteria.

## COLLEGE STUDENT AID COMMISSION[283](cont'd)

**283—15.8(261) Institution eligibility requirements.**

**15.8(1) *Application process.*** An institution requesting to participate in the future ready Iowa skilled workforce last-dollar scholarship program must apply to the college student aid commission using the college student aid commission's designated application. An applicant institution must provide the college student aid commission with documentation establishing eligibility as described in subrule 15.8(2). Applicant institutions seeking to participate in the future ready Iowa skilled workforce last-dollar scholarship program must submit applications by October 1 of the year prior to the beginning of the academic year for which they are applying for participation, with the exception of the first state fiscal year in which appropriations are authorized for expenditure.

**15.8(2) *Eligible institution.*** An Iowa community college as defined in Iowa Code section 260C.2 or an accredited private institution or eligible institution as defined in Iowa Code section 261.9 must:

- a.* Require eligible students to:
  - (1) Attend an orientation session, in person or virtually, for the eligible institution.
  - (2) Register for courses with the assistance of an advisor, create a graduation plan as required under the eligible program, and participate in available academic advising sessions.
  - (3) Participate in available career advising sessions as required under the eligible program, including creation of a career plan when possible.
- b.* Notify eligible students of the volunteer mentor program, encourage them to participate, and facilitate, in collaboration with the commission on volunteer service, the assignment of a volunteer mentor to each eligible student, based on the student's interests.
- c.* Facilitate connections through campus career centers and services to internships and similar local, state, and federal programs.
- d.* Market the eligible institution's eligible programs and optional incentives on the eligible institution's website and to other relevant agencies and organizations as recommended by the college student aid commission, commission on volunteer service, or department of workforce development.
- e.* Submit information annually to the college student aid commission including, but not limited to, information regarding recipients, scholarship disbursements, recipients' eligible programs, recipient completion rates by eligible program, and recipient employment outcomes. Information shall be submitted in the format prescribed by the college student aid commission. The college student aid commission may collaborate with other state agencies to obtain data from existing sources to reduce eligible institution reporting requirements.

**15.8(3) *Compliance reviews.*** The college student aid commission shall periodically investigate and review compliance of institutions participating in the future ready Iowa skilled workforce last-dollar scholarship program.

**283—15.9(261) Award notification.** A scholarship recipient will be notified of the award by the institution to which application is made. The institution is responsible for completing necessary verification and for coordinating other aid to ensure compliance with student eligibility requirements and allowable award amounts. The eligible institution shall report changes in student eligibility to the college student aid commission.

**283—15.10(261) Award transfers and adjustments.** Recipients are responsible for promptly notifying the appropriate eligible institution of any change in enrollment. The eligible institution will make necessary changes and notify the college student aid commission.

**283—15.11(261) Restrictions.** A student who is in default on a Stafford Loan, an SLS Loan, or a Perkins/National Direct/National Defense Student Loan or who owes a repayment on any Title IV grant assistance or state award shall be ineligible for assistance under the future ready Iowa skilled workforce last-dollar scholarship program. Eligibility for state aid may be reinstated upon payment in full of



## COLLEGE STUDENT AID COMMISSION[283](cont'd)

the delinquent obligation or by the college student aid commission's ruling on the basis of adequate extenuating evidence presented in an appeal under the procedures set forth in 283—Chapters 4 and 5.

These rules are intended to implement 2018 Iowa Acts, House File 2458, section 12.

[Filed 7/25/19, effective 9/18/19]

[Published 8/14/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/14/19.

**ARC 4608C**

**COLLEGE STUDENT AID COMMISSION[283]**

**Adopted and Filed**

**Rule making related to future ready Iowa skilled workforce grants**

The College Student Aid Commission hereby adopts new Chapter 16, "Future Ready Iowa Skilled Workforce Grant Program," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 261.3.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapter 261; 2018 Iowa Acts, House File 2458; and 2019 Iowa Acts, House File 758.

*Purpose and Summary*

Chapter 16 implements a new grant program enacted in 2018 Iowa Acts, House File 2458, section 13. House File 2458 was enacted with an effective date of July 1, 2019. House File 2458 makes adoption of administrative rules contingent upon the appropriation of funds by the General Assembly. The General Assembly approved an appropriation for the Future Ready Iowa Skilled Workforce Grant Program in 2019 Iowa Acts, Senate File 608, on April 24, 2019.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 5, 2019, as **ARC 4473C**. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Commission on July 19, 2019.

*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, pursuant to 283—Chapter 7.

## COLLEGE STUDENT AID COMMISSION[283](cont'd)

*Review by Administrative Rules Review Committee*

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

*Effective Date*

This rule making will become effective on September 18, 2019.

The following rule-making action is adopted:

Adopt the following **new** 283—Chapter 16:

CHAPTER 16  
FUTURE READY IOWA SKILLED WORKFORCE GRANT PROGRAM

**283—16.1(261) Basis for aid.** The future ready Iowa skilled workforce grant program provides grant assistance to Iowa residents enrolled in eligible programs aligned with high-demand jobs.

**283—16.2(261) Definitions.** As used in this chapter:

*“Continuous enrollment”* means an eligible student is enrolled in the fall and spring semesters of a single year. Enrollment in the summer semester is not required.

*“Eligible program”* means a curriculum leading to a baccalaureate degree that is eligible for Title IV financial aid and is aligned with a high-demand job designated by the state workforce development board pursuant to 2018 Iowa Acts, House File 2458, section 7, as amended by 2019 Iowa Acts, House File 758, section 12. The eligible program must be certified through the selection process described in rule 283—16.5(261).

*“Full-time”* means enrollment in at least 12 semester hours or the equivalent.

*“Part-time”* means enrollment in at least 6 but less than 12 semester hours or the equivalent. An eligible student may enroll in less than six semester hours in the semester in which the eligible program will be completed if less than six semester hours are required to complete the eligible program.

*“Semester”* means the fall, spring, or summer term of enrollment at an eligible institution, if the eligible institution is on a semester system, or the equivalent, if the institution is on a system other than a semester system.

**283—16.3(261) Eligible students.** An applicant of the future ready Iowa skilled workforce grant must:

1. Be an Iowa resident as defined in 283—Chapter 10.
2. Annually complete the Free Application for Federal Student Aid and any other application required by the college student aid commission by the priority application date specified by the college student aid commission.
3. Attend an orientation session, in person or virtually, for the eligible institution.
4. Register for courses with the assistance of an advisor, create a graduation plan as required under the eligible program, and participate in available academic advising sessions.
5. Enroll in an eligible program at an eligible institution.
6. Consider participating in the volunteer mentor program, as defined by the commission on volunteer service.
7. Have earned at least half of the credits necessary to complete an eligible program. Preference will be given to applicants returning to complete their first baccalaureate degree.
8. Not have been enrolled in postsecondary education for two academic years prior to the academic year in which the grant is first received.

## COLLEGE STUDENT AID COMMISSION[283](cont'd)

9. Upon receipt of the grant, maintain continuous full-time or part-time enrollment at an eligible institution.

If the student is granted a leave of absence by the eligible institution in accordance with provisions of the federal Higher Education Act of 1965, as amended, the student is not required to maintain continuous enrollment during the period covered by the approved leave of absence.

10. Participate in available career advising sessions as required under the eligible program, including creation of a career plan when possible.

11. Meet satisfactory academic progress standards as defined by the eligible institution in accordance with the provisions of the federal Higher Education Act of 1965, as amended.

12. Receive awards for no more than the equivalent of four full-time semesters or eight part-time semesters or until the eligible student completes the eligible program, whichever occurs first.

**283—16.4(261) Award amounts.** Awards for eligible students enrolled on a full-time basis shall be at least \$1,000 annually. Awards for eligible students enrolled on a part-time basis shall be the same amount prorated based on the number of semester hours in which the part-time student enrolls.

**283—16.5(261) Selection of eligible programs.**

**16.5(1)** An eligible program must lead to a credential aligned with a high-demand job pursuant to 2018 Iowa Acts, House File 2458, section 7, as amended by 2019 Iowa Acts, House File 758, section 12.

**16.5(2)** Before a program of study is considered an eligible program, the department of workforce development and the college student aid commission, in consultation with the eligible institution, must jointly certify that the program of study and credential are aligned with a high-demand job.

**16.5(3)** A list of required courses and the suggested course sequence for each eligible program must be available in a prominent location on the eligible institution's website.

**16.5(4)** Eligible programs may be reviewed by the commission periodically to ensure compliance with the criteria set forth in this rule.

**283—16.6(261) Awarding of funds.**

**16.6(1) Selection criteria.** Eligible students who enroll in eligible programs at eligible institutions may be considered for awards during a semester.

**16.6(2) Priority for grants.** In the event that funds available are insufficient to award all on-time applicants, awards are prioritized in the following order:

a. Eligible students who received the grant in the prior year.

In the event that funds available are insufficient to award all on-time applicants as specified in this paragraph, awards are prioritized to eligible students who received a grant during the prior year, according to the date the student completes the application. Applications will be ranked in date-received order, and students who complete the application by the earliest date will receive awards, insofar as funds permit.

b. Eligible students with 12 or fewer semester hours remaining to complete an eligible program.

In the event that funds available are insufficient to award all on-time applicants in an eligible program, as specified in this paragraph, awards are prioritized to eligible students according to the date the student completes the application. Applications will be ranked in date-received order, and students who complete the application by the earliest date will receive awards, insofar as funds permit.

c. Eligible students with more than 12 semester hours remaining to complete an eligible program.

In the event that funds available are insufficient to award all on-time applicants in an eligible program, as specified in this paragraph, awards are prioritized to eligible students according to the date the student completes the application. Applications will be ranked in date-received order, and students who complete the application by the earliest date will receive awards, insofar as funds permit.

**16.6(3) Removal of high-demand job from list.** If the state workforce development board removes a high-demand job from a list created under 2018 Iowa Acts, House File 2458, section 7, as amended by 2019 Iowa Acts, House File 758, section 12, an eligible student who received a grant in a program

## COLLEGE STUDENT AID COMMISSION[283](cont'd)

of study aligned with that high-demand job shall continue to receive the grant as long as the student continues to meet all other eligibility criteria.

**283—16.7(261) Institution eligibility requirements.**

**16.7(1) *Application process.*** An institution requesting to participate in the future ready Iowa skilled workforce grant program must apply to the college student aid commission using the college student aid commission's designated application. An applicant institution must provide the college student aid commission with documentation establishing eligibility as described in subrule 16.7(2). Applicant institutions seeking to participate in the future ready Iowa skilled workforce grant program must submit applications by October 1 of the year prior to the beginning of the academic year for which they are applying for participation, with the exception of the first state fiscal year in which appropriations are authorized for expenditure.

**16.7(2) *Eligible institution.*** An institution of higher learning governed by the state board of regents or an accredited private institution or eligible institution as defined in Iowa Code section 261.9 must:

- a. Require eligible students to:
  - (1) Attend an orientation session, in person or virtually, for the eligible institution.
  - (2) Register for courses with the assistance of an advisor, create a graduation plan as required under the eligible program, and participate in available academic advising sessions.
  - (3) Participate in available career advising sessions as required under the eligible program, including creation of a career plan when possible.
- b. Notify eligible students of the volunteer mentor program, encourage them to participate, and facilitate, in collaboration with the commission on volunteer service, the assignment of a volunteer mentor to each eligible student, based on the student's interests.
- c. Facilitate connections through campus career centers and services to internships and similar local, state, and federal programs.
- d. Market the eligible institution's eligible programs and optional incentives on the eligible institution's website and to other relevant agencies and organizations as recommended by the college student aid commission, commission on volunteer service, or department of workforce development.
- e. Submit information annually to the college student aid commission including, but not limited to, information regarding recipients, grant disbursements, recipients' eligible programs, recipient completion rates by eligible program, and recipient employment outcomes. Information shall be submitted in the format prescribed by the college student aid commission.

**16.7(3) *Compliance reviews.*** The college student aid commission shall periodically investigate and review compliance of institutions participating in the future ready Iowa skilled workforce grant program.

**283—16.8(261) Award notification.** A grant recipient will be notified of the award by the institution to which application is made. The institution is responsible for completing necessary verification and for coordinating other aid to ensure compliance with student eligibility requirements and allowable award amounts. The eligible institution shall report changes in student eligibility to the college student aid commission.

**283—16.9(261) Award transfers and adjustments.** Recipients are responsible for promptly notifying the appropriate eligible institution of any change in enrollment. The institution will make necessary changes and notify the college student aid commission.

**283—16.10(261) Restrictions.** A student who is in default on a Stafford Loan, an SLS Loan, or a Perkins/National Direct/National Defense Student Loan or who owes a repayment on any Title IV grant assistance or state award shall be ineligible for assistance under the future ready Iowa skilled workforce grant program. Eligibility for state aid may be reinstated upon payment in full of the delinquent obligation

COLLEGE STUDENT AID COMMISSION[283](cont'd)

or by the college student aid commission's ruling on the basis of adequate extenuating evidence presented in an appeal under the procedures set forth in 283—Chapters 4 and 5.

These rules are intended to implement 2018 Iowa Acts, House File 2458, section 13.

[Filed 7/22/19, effective 9/18/19]

[Published 8/14/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/14/19.

**ARC 4609C**

## **ENVIRONMENTAL PROTECTION COMMISSION[567]**

**Adopted and Filed**

### **Rule making related to NPDES general permit no. 6**

The Environmental Protection Commission hereby amends Chapter 64, "Wastewater Construction and Operation Permits," Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 455B.198.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 455B.173(11), 455B.186 and 455B.198.

#### *Purpose and Summary*

The purpose of this rule making is to renew the National Pollutant Discharge Elimination System (NPDES) General Permit No. 6 (GP6), which authorizes the discharge of wastewater associated with well construction activities. The permit requires the implementation of best management practices and requires visual monitoring of the wastewater effluent to determine compliance with the state's water quality standards.

The rule making includes changes to GP6 in order to increase clarity and to comply with existing state rules. The renewed permit will include an authorization to discharge treated wastewater from drilling fluid and drilling mud if the discharge complies with Iowa's narrative water quality criteria in subrule 61.3(2). Well drillers have recently improved their capability to treat the liquid portion of drilling fluid and drilling mud to the point that it will meet narrative water quality criteria. The renewed permit will also include a new limitation on coverage for discharges to outstanding Iowa waters (OIWs) so that GP6 complies with Iowa's antidegradation rules in subparagraph 64.7(2)"f"(5). The antidegradation rules require individual NPDES permits for discharges to OIWs.

A copy of the permit is available online at [www.iowadnr.gov/Environmental-Protection/Water-Quality/NPDES-Wastewater-Permitting/NPDES-General-Permits/GP6-Water-Wells](http://www.iowadnr.gov/Environmental-Protection/Water-Quality/NPDES-Wastewater-Permitting/NPDES-General-Permits/GP6-Water-Wells).

#### *Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on May 8, 2019, as **ARC 4421C**. A public hearing was held on May 28, 2019, at the Wallace State Office Building, Des Moines, Iowa. Two people attended the public hearing.

Public comments were received from the Iowa Environmental Council, which requested that the Department of Natural Resources maintain the prohibition on discharge of drilling fluid and drilling mud and also add requirements for discharges immediately upslope of receiving streams.

No revisions were made to GP6 in response to public comments. No changes from the Notice have been made.

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

*Adoption of Rule Making*

This rule making was adopted by the Commission on July 16, 2019.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any, pursuant to 561—Chapter 10.

*Review by Administrative Rules Review Committee*

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

*Effective Date*

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

The following rule-making action is adopted:

Amend subrule 64.15(6) as follows:

**64.15(6)** “Discharge Associated with Well Construction Activities,” NPDES General Permit No. 6, effective March 1, ~~2015~~ 2020, to February 28, ~~2020~~ 2025.

[Filed 7/16/19, effective 3/1/20]

[Published 8/14/19]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 8/14/19.

**ARC 4610C**

**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed****Rule making related to removal of obsolete mental health and disability services rules**

The Human Services Department hereby rescinds Chapter 15, “Resolution of Legal Settlement Disputes,” and Chapter 23, “Mental Health and Disability Services Redesign Transition Fund,” and amends Chapter 25, “Disability Services Management,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 225C.6.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 225C.6.

*Purpose and Summary*

These amendments rescind Chapter 15. When the term “legal settlement” was replaced by the term “county of residence” in statute, the Department’s dispute resolution method changed. Also, the authorizing state law, Iowa Code section 225C.8, was repealed by 2012 Iowa Acts, chapter 1120, sections 129 and 130. As a result, Chapter 15 no longer conforms to state law.

These amendments also rescind Chapter 23. Chapter 23 provides rules for gathering information and guiding the development of recommendations to the Governor and Legislature for the mental health and disability services transition fund for state fiscal year 2013. This funding was one-time funding and is no longer applicable.

Finally, these amendments rescind rule 441—25.81(225C) and the preamble and title of Division VII in Chapter 25. Prior to 2014, counties were required to establish or affiliate with a community mental health center or complete a waiver in order to receive community services funds. The authorizing state law, Iowa Code section 225C.7, was repealed by 2014 Iowa Acts, chapter 1092, section 152. As a result, the content in Division VII of Chapter 25 no longer conforms to state law.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on May 22, 2019, as **ARC 4440C**. The Department received no comments during the public comment period. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Mental Health and Disability Services Commission on July 18, 2019.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa. These amendments eliminate obsolete rules that no longer conform to the Iowa Code.

*Jobs Impact*

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

*Waivers*

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

*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 18, 2019.

HUMAN SERVICES DEPARTMENT[441](cont'd)

The following rule-making actions are adopted:

- ITEM 1. Rescind and reserve **441—Chapter 15**.
- ITEM 2. Rescind and reserve **441—Chapter 23**.
- ITEM 3. Amend **441—Chapter 25**, Division VII title, as follows:

DIVISION VII  
~~COMMUNITY MENTAL HEALTH CENTER WAIVER REQUEST~~

- ITEM 4. Rescind **441—Chapter 25**, Division VII preamble.
- ITEM 5. Rescind and reserve rule **441—25.81(225C)**.

[Filed 7/19/19, effective 9/18/19]

[Published 8/14/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/14/19.

**ARC 4611C**

**PUBLIC HEALTH DEPARTMENT[641]**

**Adopted and Filed**

**Rule making related to state plumbing code**

The Plumbing and Mechanical Systems Board hereby amends Chapter 25, "State Plumbing Code," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 105.4.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 105.4.

*Purpose and Summary*

The rule making includes the adoption by reference of the Uniform Plumbing Code, 2018 Edition. The Board previously adopted the 2015 edition of the Uniform Plumbing Code (UPC). The Board is required to adopt the most recent version of the UPC by law. In addition, the amendments incorporate other clarifications to the state plumbing code that were suggested by public comment. The majority of the changes are relatively minor technical changes to better align the plumbing code with current practice. The most significant amendment is the addition of language that eliminates engineered single-stack drainage systems as provided for in Items 4 and 6.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on May 22, 2019, as **ARC 4447C**. A public hearing was held on June 11, 2019, at 3 p.m. in Room 518, Lucas State Office Building, Des Moines, Iowa. Two people attended the public hearing. Both attendees also submitted written comments. Their verbal comments at the hearing were the same as their written comments.

The comments addressed four general categories: (1) overall adoption of the Uniform Plumbing Code; (2) permit, inspection, testing, and enforcement provisions; (3) single-stack drainage systems; and (4) corrugated stainless steel tubing. A summary of the comments and the Board's responses to the comments are as follows.

**Issue: Overall Adoption of the Uniform Plumbing Code**



## PUBLIC HEALTH DEPARTMENT[641](cont'd)

Public Comment

One comment was received. The commenter thanked the Board for selecting the Uniform Plumbing Code.

Board Response

Under Iowa Code section 105.4(1)“a,” the Board is required to adopt the most current version of the Uniform Plumbing Code.

**Issue: Permit, Inspection, Testing, and Enforcement Provisions**

The Board’s rule making would establish the scope of the adopted code as follows: “Local jurisdictions may administer the permit, inspection, testing, and enforcement provisions contained in this code. Permit, inspection, testing, and enforcement provisions contained in this code shall not be administered by the Plumbing and Mechanical Systems Board or the state.”

Public Comment

One comment was received. The comment urged the Board not to limit the adopted code’s scope by clarifying that no state inspections will occur. The commenter pointed out that a bill introduced in the past legislative session, 2019 Iowa Acts, House File 639, would establish and implement state inspections, and so the Board would have to remove the scope limitation if House File 639 passes the Legislature in 2020.

Board Response

The Board may eliminate the scope limitation at a later time if House File 639 passes the Legislature during the 2020 Legislative Session, but prefers to wait and see if the bill in fact passes. If the Legislature enacts House File 639, this language in the rule may automatically be superseded. When a statute and a rule conflict, the statute prevails. A statute that implements state inspections would supersede a rule that says no state inspections will occur. The Board made no changes in response to this comment.

**Issue: Single-Stack Drainage Systems**

The Board’s rule making provides that engineered single-stack drainage systems are not an allowable alternative engineered design.

Public Comment

Four comments were received. All four comments expressed a preference that the Board continue to allow single-stack drainage systems as a permissible alternative engineered design, particularly in certain types of projects. The comments further proposed a series of steps involving advance approval of designs, thorough training, detailed installation instructions, and frequent inspections, which the commenters asserted would ensure all single-stack drainage systems are successful and fully functional.

Board Response

Section 301.5 of the Uniform Plumbing Code requires alternative engineered designs to comply with the intent of the overall Uniform Plumbing Code. Section 310.4 of the Uniform Plumbing Code, which the Board is also adopting, already prohibits single-stack drainage and venting systems with unvented branch lines. The Board’s rule provides a uniform, easy-to-apply, bright-line rule that does not allow alternative engineered designs to become a loophole circumventing Section 310.4.

Some comments suggested that disallowing future single-stack drainage systems will drive up costs. However, front-end cost savings may not create savings in the long run because once installed, an engineered system cannot be modified without re-engineering the system. Additionally, the Board has found that single-stack systems in Iowa often do not maintain the one-inch water column required under Section 901.3 of the Uniform Plumbing Code. Potential cost savings for contractors are not a compelling reason to continue utilizing single-stack systems if the cost savings come at the expense of compliance with the Uniform Plumbing Code’s other provisions and overall intent.

**Issue: Corrugated Stainless Steel Tubing**

The Board’s rule making amends paragraph 25.4(9)“c” to read as follows:

“c. Subsection 1208.6.4.4 Corrugated Stainless Steel Tubing. Delete subsection 1208.6.4.4 and insert the following in lieu thereof:

“Subsection 1208.6.4.4 Corrugated Stainless Steel Tubing. Only CSST with an arc-resistant jacket or covering system listed in accordance with ANSI LC-1 (Optional Section 5.16)/CSA 6.26-2016 shall be installed, in accordance with the terms of its approval, the conditions of listing, the manufacturer’s

PUBLIC HEALTH DEPARTMENT[641](cont'd)

instructions and this code, including electrical bonding requirements in Section 1211.2. CSST shall not be used for through-wall penetrations from the point of delivery of the gas supply to the inside of the structure. CSST shall not be installed in locations where subject to physical damage unless protected in an approved manner.”

#### Public Comment

Four comments were received. All four comments urged the Board to continue allowing both CSST with an arc-resistant jacket (black CSST) and CSST without an arc-resistant jacket (yellow CSST). The commenters suggested that yellow CSST is a safe and reliable material so long as it is (1) properly installed according to manufacturer instructions, (2) properly bonded or grounded, and (3) inspected.

#### Board Response

The amendment does not prohibit all CSST or require that rigid iron pipe be used. As some comments reflect, black-jacketed CSST contains additional protection beyond the protection provided by bonding and grounding. One of the Board’s purposes is to protect the public. Preferring safer versions of available materials protects and preserves the public’s safety and ideally will also reduce the likelihood that Iowa contractors and licensees will face significant lawsuits like the ones brought against contractors, installers, and yellow CSST manufacturers in several other states over the course of the last 15 to 20 years.

Some commenters suggested that either bonding or a protective jacket accomplishes the same goal of lessening risk. If both bonding and a protective jacket combine to reduce risk further than either feature alone would, preferring that contractors do both helps to protect public safety. Most commenters suggested that any problem with yellow CSST is not due to the product itself but due to inadequate or improper installation of it—for example, an installation that does not follow manufacturer instructions. One commenter suggested that revisions to enforcement and inspection procedures, rather than revisions to the allowable materials, are a better solution. The Board does not necessarily disagree that rigorous and widespread inspection and enforcement can help to lessen the risk of catastrophe. However, the Board arrived at this prophylactic solution to ensure that Iowans whose properties may not be subject to inspection (because they are located outside a county or municipality that regularly performs inspections) are still afforded a baseline protection by the black-jacket arc-resistant CSST.

The amendment to Section 1208.6.4.4 is already in place in approximately a dozen local jurisdictions under the umbrella of the Central Iowa Code Consortium. Because the Board maintains (indeed, is legally required to maintain) a repository of local jurisdiction standards that are stricter than the applicable statewide code, the Board can see what local solutions the various jurisdictions develop. What is working well on a local level may also work statewide—especially if that local solution keeps Iowans safe.

After considering all public comments and responding to them, the Board did not make any changes in response to these comments. The amendments remain the same as noticed.

#### *Adoption of Rule Making*

This rule making was adopted by the Board on July 16, 2019.

#### *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 the Board’s general waiver provisions contained in 641—Chapter 31.

*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 18, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend rule 641—25.1(105) as follows:

**641—25.1(105) Adoption.** Sections 101 and 102 and Chapters 2 to 17 of the Uniform Plumbing Code, 2015 2018 Edition, as published by the International Association of Plumbing and Mechanical Officials, 4755 E. Philadelphia Street, Ontario, California 91761-2816, are hereby adopted by reference with amendments as the state plumbing code authorized by Iowa Code section 105.4. Portions of this chapter reproduce excerpts from the 2015 2018 International Plumbing Code; Copyright 2014 2017; Washington, D.C.: International Code Council. Such excerpts are reproduced with permission, all rights reserved. [www.ICCSAFE.org](http://www.ICCSAFE.org)

ITEM 2. Amend rule 641—25.3(105) as follows:

**641—25.3(105) Fuel gas piping.** Fuel gas piping shall comply with the requirements of Chapter 12 of the Uniform Plumbing Code, 2015 2018 Edition, unless the provisions conflict with 661—Chapter 226, Liquefied Petroleum Gas, Iowa Administrative Code. Where Chapter 12 conflicts with 661—Chapter 226, the provisions of 661—Chapter 226 shall be followed.

ITEM 3. Adopt the following **new** subrule 25.4(1):

**25.4(1)** The following amendment shall apply to UPC Chapter 1: Section 101.2 Scope. Modify the section by adding the following sentence to the end of the section: “Local jurisdictions may administer the permit, inspection, testing, and enforcement provisions contained in this code. Permit, inspection, testing, and enforcement provisions contained in this code shall not be administered by the Plumbing and Mechanical Systems Board or the state.”

ITEM 4. Amend subrule 25.4(2) as follows:

**25.4(2)** The following amendments shall apply to UPC Chapter 3:

*a.* ~~Subsection 301.5.1 Permit Application. Delete the subsection.~~ Section 301.5 Alternative Engineered Design. Modify the section by adding the following sentence to the end of the section: “No engineered single-stack drainage system shall be installed.”

*b.* No change.

ITEM 5. Rescind subrule 25.4(3) and adopt the following **new** subrule in lieu thereof:

**25.4(3)** The following amendments shall apply to UPC Chapter 4:

*a.* Section 402.5 Setting. Modify the section by adding the following sentence to the end of the section that begins “Exception:”: “Sanitary napkin receptors are not dispensers and shall not be within the clear space of the water closet.”

*b.* Section 407.3 Limitation of Hot Water Temperature for Public Lavatories. Modify the section by adding the following sentence to the end of the section: “These devices shall be installed at or as close as possible to the point of use.”

*c.* Section 408.4 Waste Outlet. Modify the section by adding the following exception to the end of the section: “Exception: In a residential dwelling unit where a 2-inch waste pipe is not readily available and approval of the Authority Having Jurisdiction has been granted, the waste outlet, fixture tailpiece,

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

trap and trap arm may be 1½ inches when an existing tub is being replaced by a shower sized per Section 408.6(2). This exception only applies where one shower head rated at 2.5 gpm is installed.”

*d.* Section 409.4 Limitation of Hot Water in Bathtubs and Whirlpool Bathtubs. Modify the section by adding the following sentence to the end of the section: “These devices shall be installed at or as close as possible to the point of use.”

*e.* Section 410.3 Limitation of Water Temperature in Bidets. Modify the section by adding the following sentence to the end of the section: “These devices shall be installed at or as close as possible to the point of use.”

*f.* Section 416.5 Drain. Modify the section by deleting the last sentence, which states: “Where a drain is provided, the discharge shall be in accordance with Section 811.0.”

*g.* Section 418.3 Location of Floor Drains. Modify the section by adding the following to the end of the section: “(5) Rooms equipped with a water heater.”

*h.* Section 422.1 Fixture Count. Modify the section by deleting the first paragraph and inserting the following in lieu thereof: “Plumbing fixtures shall be provided in each building for the type of building occupancy and in the minimum number shown in Table 403.1 of the International Plumbing Code, reprinted here as Table 422.1. The design occupant load and occupancy classification shall be determined in accordance with Section 1004 of the 2015 International Building Code. Required public facilities shall be designated by a legible sign for each sex. Signs shall be readily visible and located near the entrance to each toilet facility.”

*i.* Subsection 422.1.1 Family or Assisted-Use Toilet and Bathing Facilities. Modify the subsection by adding the following sentence to the end of the subsection: “Required family or assisted-use fixtures are permitted to be included in the number of required fixtures for either the male or female occupants in assembly and mercantile occupancies.”

*j.* Table 422.1 Minimum Plumbing Facilities. Delete the table and insert the following table in lieu thereof. Exception: Projects under the jurisdiction of the state building code may use fixture counts from the 2015 International Building Code.

<b>TABLE 422.1 MINIMUM NUMBER OF REQUIRED PLUMBING FIXTURES<sup>a</sup></b> (See Sections 403.1.1 and 403.2) (Reprinted with permission,* from the 2018 International Plumbing Code, excerpt from IPC Table 403.1)									
NO.	CLASSIFICATION	DESCRIPTION	WATER CLOSETS (URINALS: SEE SECTION 422.7)		LAVATORIES		BATHTUBS/ SHOWERS	DRINKING FOUNTAIN (SEE SECTION 415.0)	OTHER
			MALE	FEMALE	MALE	FEMALE			
1	Assembly	Theaters and other buildings for the performing arts and motion pictures <sup>d</sup>	1 per 125	1 per 65	1 per 200		—	1 per 500	1 service sink
		Nightclubs, bars, taverns, dance halls and buildings for similar purposes <sup>d</sup>	1 per 40	1 per 40	1 per 75		—	1 per 500	1 service sink
		Restaurants, banquet halls and food courts <sup>d</sup>	1 per 75	1 per 75	1 per 200		—	1 per 500	1 service sink
		Gaming areas	1 per 100 for the first 400 and 1 per 250 for the remainder exceeding 400	1 per 50 for the first 400 and 1 per 150 for the remainder exceeding 400	1 per 250 for the first 750 and 1 per 500 for the remainder exceeding 750		—	1 per 1,000	1 service sink
		Auditoriums without permanent seating, art galleries, exhibition halls, museums, lecture halls, libraries, arcades and gymnasiums <sup>d</sup>	1 per 125	1 per 65	1 per 200		—	1 per 500	1 service sink
		Passenger terminals and transportation facilities <sup>d</sup>	1 per 500	1 per 500	1 per 750		—	1 per 1,000	1 service sink
		Places of worship and other religious services <sup>d</sup>	1 per 150	1 per 75	1 per 200		—	1 per 1,000	1 service sink

<b>TABLE 422.1 MINIMUM NUMBER OF REQUIRED PLUMBING FIXTURES<sup>a</sup></b> (See Sections 403.1.1 and 403.2) (Reprinted with permission,* from the 2018 International Plumbing Code, excerpt from IPC Table 403.1)									
NO.	CLASSIFICATION	DESCRIPTION	WATER CLOSETS (URINALS: SEE SECTION 422.7)		LAVATORIES		BATHTUBS/ SHOWERS	DRINKING FOUNTAIN (SEE SECTION 415.0)	OTHER
			MALE	FEMALE	MALE	FEMALE			
1	Assembly (cont'd)	Coliseums, arenas, skating rinks, pools and tennis courts for indoor sporting events and activities	1 per 75 for the first 1,500 and 1 per 120 for the remainder exceeding 1,500	1 per 40 for the first 1,520 and 1 per 60 for the remainder exceeding 1,520	1 per 200	1 per 150	—	1 per 1,000	1 service sink
		Stadiums, amusement parks, bleachers and grandstands for outdoor sporting events and activities <sup>f</sup>	1 per 75 for the first 1,500 and 1 per 120 for the remainder exceeding 1,500	1 per 40 for the first 1,520 and 1 per 60 for the remainder exceeding 1,520	1 per 200	1 per 150	—	1 per 1,000	1 service sink
2	Business	Buildings for the transaction of business, professional services, other services involving merchandise, office buildings, banks, light industrial and similar uses	1 per 25 for the first 50 and 1 per 50 for the remainder exceeding 50		1 per 40 for the first 80 and 1 per 80 for the remainder exceeding 80		—	1 per 100	1 service sink <sup>e</sup>
3	Educational	Educational facilities	1 per 50		1 per 50		—	1 per 100	1 service sink
4	Factory and Industrial	Structures in which occupants are engaged in work fabricating, assembly or processing of products or materials	1 per 100		1 per 100		—	1 per 400	1 service sink

TABLE 422.1 MINIMUM NUMBER OF REQUIRED PLUMBING FIXTURES <sup>a</sup>									
(See Sections 403.1.1 and 403.2)									
(Reprinted with permission,* from the 2018 International Plumbing Code, excerpt from IPC Table 403.1)									
NO.	CLASSIFICATION	DESCRIPTION	WATER CLOSETS (URINALS: SEE SECTION 422.7)		LAVATORIES		BATHTUBS/ SHOWERS	DRINKING FOUNTAIN (SEE SECTION 415.0)	OTHER
			MALE	FEMALE	MALE	FEMALE			
5	Institutional	Custodial care facilities	1 per 10		1 per 10		1 per 8	1 per 100	1 service sink
		Medical care recipients in hospitals and nursing homes	1 per room <sup>c</sup>		1 per room <sup>c</sup>		1 per 15	1 per 100	1 service sink per floor
		Employees in hospitals and nursing homes <sup>b</sup>	1 per 25		1 per 35		—	1 per 100	—
		Visitors in hospitals and nursing homes	1 per 75		1 per 100		—	1 per 500	—
		Prisons <sup>b</sup>	1 per cell		1 per cell		1 per 15	1 per 100	1 service sink
		Reformatories, detention centers, and correctional centers <sup>b</sup>	1 per 15		1 per 15		1 per 15	1 per 100	1 service sink
		Employees in reformatories, detention centers and correctional centers <sup>b</sup>	1 per 25		1 per 35		—	1 per 100	—
		Adult day care and child day care	1 per 15		1 per 15		1	1 per 100	1 service sink
6	Mercantile	Retail stores, service stations, shops, salesrooms, markets and shopping centers	1 per 500		1 per 750		—	1 per 1,000	1 service sink <sup>e</sup>

TABLE 422.1 MINIMUM NUMBER OF REQUIRED PLUMBING FIXTURES <sup>a</sup> (See Sections 403.1.1 and 403.2) (Reprinted with permission,* from the 2018 International Plumbing Code, excerpt from IPC Table 403.1)									
NO.	CLASSIFICATION	DESCRIPTION	WATER CLOSETS (URINALS: SEE SECTION 422.7)		LAVATORIES		BATHTUBS/ SHOWERS	DRINKING FOUNTAIN (SEE SECTION 415.0)	OTHER
			MALE	FEMALE	MALE	FEMALE			
7	Residential	Hotels, motels, boarding houses (transient)	1 per sleeping unit		1 per sleeping unit		1 per sleeping unit	—	1 service sink
		Dormitories, fraternities, sororities and boarding houses (not transient)	1 per 10		1 per 10		1 per 8	1 per 100	1 service sink
		Apartment house	1 per dwelling unit		1 per dwelling unit		1 per dwelling unit	—	1 kitchen sink per dwelling unit; 1 automatic clothes washer connection per 20 dwelling units



TABLE 422.1 MINIMUM NUMBER OF REQUIRED PLUMBING FIXTURES <sup>a</sup> (See Sections 403.1.1 and 403.2) (Reprinted with permission,* from the 2018 International Plumbing Code, excerpt from IPC Table 403.1)									
NO.	CLASSIFICATION	DESCRIPTION	WATER CLOSETS (URINALS: SEE SECTION 422.7)		LAVATORIES		BATHTUBS/ SHOWERS	DRINKING FOUNTAIN (SEE SECTION 415.0)	OTHER
			MALE	FEMALE	MALE	FEMALE			
7	Residential (cont'd)	Congregate living facilities with 16 or fewer persons	1 per 10		1 per 10		1 per 8	1 per 100	1 service sink
		One- and two-family dwellings and lodging houses with five or fewer guestrooms	1 per dwelling unit		1 per dwelling unit		1 per dwelling unit	—	1 kitchen sink per dwelling unit; 1 automatic clothes washer connection per dwelling unit
		Congregate living facilities with 16 or fewer persons	1 per 10		1 per 10		1 per 8	1 per 100	1 service sink
8	Storage	Structures for the storage of goods, warehouses, storehouse and freight depots. Low and Moderate Hazard.	1 per 100		1 per 100		—	1 per 1,000	1 service sink

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

a The fixtures shown are based on one fixture being the minimum required for the number of persons indicated or any fraction of the number of persons indicated. The number of occupants shall be determined by the International Building Code.

b Toilet facilities for employees shall be separate from facilities for inmates or care recipients.

c A single-occupant toilet room with one water closet and one lavatory serving not more than two adjacent patient sleeping units shall be permitted provided that each patient sleeping unit has direct access to the toilet room and provision for privacy for the toilet room user is provided.

d The occupant load for seasonal outdoor seating and entertainment areas shall be included when determining the minimum number of facilities required.

e For business and mercantile classifications with an occupant load of 15 or fewer, service sinks shall not be required.

f The required number and type of plumbing fixtures for outdoor public swimming pools shall be in accordance with Section 609 of the International Swimming Pool and Spa Code.

\*Excerpted (with modifications) from Table 403.1 of the 2018 International Plumbing Code; Copyright 2017; Washington, D.C.: International Code Council. Reproduced with permission. All rights reserved. [www.ICCSAFE.org](http://www.ICCSAFE.org)

k. Subsection 422.2.2 Family or Assisted-Use Toilet and Bathing Facilities. Modify the subsection by adding the following sentence to the end of the subsection: "Required family or assisted-use fixtures are permitted to be included in the number of required fixtures for either the male or female occupants in assembly and mercantile occupancies."

l. Insert the following text at the end of Chapter 4:

"422.6 Substitution for Water Closets. In each bathroom or toilet room, urinals shall not be substituted for more than 67 percent of the required water closets in assembly and educational occupancies. Urinals shall not be substituted for more than 50 percent of the required water closets in all other occupancies. (Reprinted from the 2018 International Plumbing Code section 424.2)"

ITEM 6. Amend subrules 25.4(4) to 25.4(14) as follows:

~~25.4(4)~~ The following amendment shall apply to UPC Chapter 5:

~~Sections 503.0 through 503.2 Inspection. Delete the sections.~~

~~25.4(5)~~ **25.4(4)** The following amendments shall apply to UPC Chapter 6:

a. Section 603.4.8 Drain Lines. Modify the section by adding the following language to the end of the ~~section~~ last sentence in the section: "or in accordance with the manufacturer's drain-sizing chart for installation."

b. Section 609.1 Installation. Delete Section 609.1 and insert the following in lieu thereof:

Section 609.1 Installation. Water piping shall be adequately supported in accordance with Table 313.3. Burred ends shall be reamed to the full bore of the pipe or tube. Changes in direction shall be made by the appropriate use of fittings, except that changes in direction in copper or copper alloy tubing shall be permitted to be made with bends, provided that such bends are made with bending equipment that does not deform or create a loss in the cross-sectional area of the tubing. Changes in direction are allowed with flexible pipe and tubing without fittings in accordance with the manufacturer's instructions. Provisions shall be made for expansion in hot-water piping. Piping, equipment, appurtenances, and devices shall be installed in a workmanlike manner in accordance with the provisions and intent of the code. Building supply yard piping shall be not less than 60 inches below earth cover.

~~b. c.~~ Section 609.11 Pipe Insulation. Delete sections 609.11 through 609.11.2 and insert the following in lieu thereof:

Section 609.11 Pipe Insulation. Insulation of domestic hot water piping shall be in accordance with the applicable energy conservation code.

~~c. d.~~ Section 611.4 Sizing of Residential Softeners. Modify the section by adding the following to the end of the last sentence in the section: "or as specified in the manufacturer's installation instructions."

~~d. e.~~ Section 612 Residential Fire Sprinkler Systems. Delete sections 612.0 through 612.7.2.

~~25.4(6)~~ **25.4(5)** The following ~~amendment~~ amendments shall apply to UPC Chapter 7:

a. Section 710.1 Backflow Protection. Modify the section by adding the following sentences to the end of the section: "The requirement for the installation of a backwater valve shall apply only when determined necessary by the ~~authority having jurisdiction~~ Authority Having Jurisdiction based on local conditions. When a valve is required by the ~~authority having jurisdiction~~ Authority Having Jurisdiction,

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

it shall be a manually operated gate valve or fullway ball valve. An automatic backwater valve may also be installed but is not required.”

*b.* Section 717.1 General. Modify the section by adding the following language to the end of the section: “No building sewer shall be smaller than 4 inches in diameter.”

**25.4(7) 25.4(6)** The following ~~amendment~~ amendments shall apply to UPC Chapter 8:

*a.* Section 807.3 Domestic Dishwashing Machine. Modify the section by deleting the section and inserting the following language in lieu thereof: “No domestic dishwashing machine shall be directly connected to a drainage system or food waste disposer without the use of an approved dishwasher air gap fitting on the discharge side of the dishwashing machine, or by looping the discharge line of the dishwasher as high as possible near the flood level of the kitchen sink where the waste disposer is connected. Listed air gap fittings shall be installed with the flood level (FL) marking at or above the flood level of the sink or drainboard, whichever is higher.”

*b.* Section 814.5 Point of Discharge. Delete Section 814.5 and insert the following in lieu thereof:  
Section 814.5 Point of Discharge. Air-conditioning condensate waste pipes shall connect indirectly to a properly trapped fixture, floor drain, or open sight drain, or where permitted in Section 814.6, to the drainage system through an air gap or air break to trapped and vented receptors, dry wells, leach pits, sump pump, the tailpiece of plumbing fixtures or indirectly to the building storm sewer through a roof drain. A condensate drain shall be trapped in accordance with appliance manufacturer’s instructions or as approved.

**25.4(8) 25.4(7)** The following ~~amendment~~ amendments shall apply to UPC Chapter 9:

*a.* Section 901.1 Applicability. Modify the section by adding the following sentence to the end of the section: “No engineered single-stack drainage systems shall be installed.”

*b.* Section 906.1 Roof Termination. Modify the section by deleting the last sentence.

~~*a. c.*~~ Section 906.7 Frost or Snow Closure. Modify the section by deleting “two (2) inches (50.8 mm)” in the first sentence and inserting “three (3) inches (76.2 mm)” in lieu thereof.

~~*b. d.*~~ Section 908.2.2 Size. Delete the second sentence in this section and insert the following new sentence in lieu thereof: “The wet vent shall be not less than 2 inches (50 mm) in diameter for 6 drainage fixture units (dfu) or less, and not less than 3 inches (80 mm) in diameter for 7 dfu or more.”

**25.4(9) 25.4(8)** The following ~~amendment~~ amendments shall apply to UPC Chapter 10:

*a.* Table 1002.2 Horizontal Lengths of Trap Arms. Delete the table and insert the following table in lieu thereof:

TABLE 1002.2 Horizontal Lengths of Trap Arms (Except for Water Closets and Similar Features) <sup>1,2</sup>		
Trap Arm Diameter (inches)	Distance Trap to Vent Minimum (inches)	Length Maximum (feet)
1¼	2½	5
1½	3	6
2	4	8
3	6	12
4	8	12
Exceeding 4	2 × Diameter	12

For SI units: 1 inch = 25.4 mm

Notes:

<sup>1</sup>Maintain ¼ inch per foot slope (20.8 mm/m).

<sup>2</sup>The developed length between the trap of a water closet or similar fixture (measured from the top of the closet flange to the inner edge of the vent) and its vent shall not exceed 6 feet (1829 mm).

*b.* Section 1014.1.3 Food Waste Disposers and Dishwashers. Modify the section by deleting the second sentence and inserting the following in lieu thereof: “Commercial food waste disposers shall discharge into the building’s drainage system in accordance with the requirements of the Authority Having Jurisdiction.”

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

~~25.4(10)~~ **25.4(9)** The following amendments shall apply to UPC Chapter 12:

~~a. Sections 1203.0 through 1203.4 Inspection. Delete the sections.~~

~~b. Sections 1204.0 through 1204.3 Certificate of Inspection. Delete the sections.~~

~~c. a. Sections 1205.0 through 1205.2 Authority to Render Gas Service. Delete the sections.~~

~~d. b. Sections 1207.0 and 1207.1 Temporary Use of Gas. Delete the sections.~~

~~c. Subsection 1208.6.4.4 Corrugated Stainless Steel Tubing. Delete subsection 1208.6.4.4 and insert the following in lieu thereof:~~

Subsection 1208.6.4.4 Corrugated Stainless Steel Tubing. Only CSST with an arc-resistant jacket or covering system listed in accordance with ANSI LC-1 (Optional Section 5.16)/CSA 6.26-2016 shall be installed, in accordance with the terms of its approval, the conditions of listing, the manufacturer's instructions and this code, including electrical bonding requirements in Section 1211.2. CSST shall not be used for through-wall penetrations from the point of delivery of the gas supply to the inside of the structure. CSST shall not be installed in locations where subject to physical damage unless protected in an approved manner.

~~25.4(11)~~ **25.4(10)** The following amendments amendment shall apply to UPC Chapter 13:

~~a. Sections 1304.5 through 1304.5.3 Construction Documents. Delete the sections.~~

~~b. Section 1320.3 1319.3 Report Items. Modify the section by deleting "Authority Having Jurisdiction" and inserting "responsible facility authority" in lieu thereof.~~

~~25.4(12)~~ The following amendment shall apply to UPC Chapter 14:

~~Sections 1406.0 through 1406.4 Required Inspection. Delete the sections.~~

~~25.4(13)~~ The following amendments shall apply to UPC Chapter 15:

~~a. Section 1501.3 Permit. Delete the section.~~

~~b. Section 1501.6 Operation and Maintenance Manual. Modify the section by deleting "required to have a permit in accordance with Section 1501.3" from the first sentence.~~

~~c. Subsection 1501.11.2.1 Visual System Inspection. Modify the subsection by deleting "by the Authority Having Jurisdiction and other authorities having jurisdiction" from the first sentence.~~

~~d. Subsection 1501.11.2.2 Cross-Connection Test. Modify the subsection by deleting "by the applicant in the presence of the Authority Having Jurisdiction and other authorities having jurisdiction" from the first sentence.~~

~~e. Subsection 1501.11.2.3 Discovery of Cross-Connection. Modify the subsection by deleting "in the presence of the Authority Having Jurisdiction."~~

~~f. Section 1503.2 Permit. Delete the section.~~

~~g. Section 1504.2 Plumbing Plan Submission. Delete the section.~~

~~h. Section 1504.5 Initial Cross-Connection Test. Modify the section by deleting "by the applicant in the presence of the Authority Having Jurisdiction and other authorities having jurisdiction," and by deleting the final sentence ("The test shall be ruled successful by the Authority Having Jurisdiction before final approval is granted.").~~

~~25.4(14)~~ The following amendments shall apply to UPC Chapter 16:

~~a. Section 1602.2 Plumbing Plan Submission. Delete the section.~~

~~b. Section 1602.5 Initial Cross-Connection Test. Modify the section by deleting the second and third sentences ("Before the building is occupied or the system is activated, the installer shall perform the initial cross-connection test in the presence of the Authority Having Jurisdiction and other authorities having jurisdiction. The test shall be ruled successful by the Authority Having Jurisdiction before final approval is granted.").~~

~~c. Subsection 1602.11.2.1 Visual System Inspection. Modify the subsection by deleting "by the Authority Having Jurisdiction and other authorities having jurisdiction."~~

~~d. Subsection 1602.11.2.2 Cross-Connection Test. Modify the subsection by deleting "by the applicant in the presence of the Authority Having Jurisdiction and other authorities having jurisdiction."~~

~~e. Subsection 1602.11.2.3 Discovery of Cross-Connection. Modify the subsection by deleting "in the presence of the Authority Having Jurisdiction."~~

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 7. Amend rule 641—25.5(105), introductory paragraph, as follows:

**641—25.5(105) Backflow prevention with containment.** Cities with populations of 15,000 or greater as determined by the 2010 census or any subsequent regular or special census shall have a backflow prevention program with containment. The minimum requirements for a program are given in subrules 25.5(1) through 25.5(5). These requirements are in addition to the applicable requirements of Section 603 of the Uniform Plumbing Code, 2015 2018 Edition.

ITEM 8. Amend subrule 25.5(1), introductory paragraph, as follows:

**25.5(1) Definitions.** The following definitions are added to those in Chapter 2 and Section 603 of the Uniform Plumbing Code, 2015 2018 Edition, or are modified from those definitions for the purposes of rule 641—25.5(105) only.

ITEM 9. Amend paragraph **25.5(1)“b”** as follows:

*b. Approved backflow prevention assembly for containment.* Approved backflow prevention assembly for containment means a backflow prevention assembly which is approved by the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research. The approval listing shall include the limitations of use based on the degree of hazard. The backflow prevention assembly shall also be listed by the International Association of Plumbing and Mechanical Officials (IAPMO) or by the American Society of Sanitary Engineering (ASSE) as having met the requirements of one of the standards listed below.

Standard	Product Covered
ANSI <sup>□</sup> /ASSE* 1013-2009	Reduced Pressure Principle Backflow Preventers
ANSI <sup>□</sup> /ASSE* 1015-2009	Double Check Backflow Prevention Assembly
ANSI <sup>□</sup> /ASSE* 1047-2009	Reduced Pressure Detector Backflow Preventer
ANSI <sup>□</sup> /ASSE* 1048-2009	Double Check Detector Assembly Backflow Preventer
ANSI <sup>□</sup> /AWWA <sup>†</sup> C510-07	Double Check Valve Backflow Prevention Assembly
ANSI <sup>□</sup> /AWWA <sup>†</sup> C511-07	Reduced-Pressure Principle Backflow Prevention Assembly

<sup>□</sup>American National Standards Institute, 1819 1899 L Street NW, 11th Floor, Washington, DC 20036

\*American Society of Sanitary Engineering, 901 Canterbury Road, Suite A, Westlake, OH 44145 18927 Hickory Creek Drive #220, Mokena, IL 60448

<sup>†</sup>American Water Works Association, 6666 West Quincy Avenue, Denver, CO 80235

[Filed 7/17/19, effective 9/18/19]

[Published 8/14/19]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 8/14/19.

**ARC 4612C**

**PUBLIC HEALTH DEPARTMENT[641]**

**Adopted and Filed**

**Rule making related to fees for radiological health programs**

The Public Health Department hereby amends Chapter 38, “General Provisions for Radiation Machines and Radioactive Materials,” and Chapter 42, “Permit to Operate Ionizing Radiation Producing Machines or Administer Radioactive Materials,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 136C.3 and 136C.10.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapter 136C.

*Purpose and Summary*

This rule making consists of several amendments providing for fee adjustments to align with program costs.

Adjustment of fees is necessary to defray the costs of Bureau of Radiological Health programs for licensing, registration and inspection related to radiation machines and radioactive materials. The Bureau is authorized by Iowa Code chapter 136C, which states that fees shall be established to defray the cost of administering the program, to keep and retain these fees to support program activities. The majority of the fees to administer Bureau programs have not been raised for at least 20 years. More specifically:

- The radiation machine fees have not been changed since before 1998.
- The permit-to-practice fees have not been increased since 2007, when a \$15 fee increase was implemented.
- The mammography fees have not been raised since 2006, and the accreditation fees are no longer applicable because the Department is transitioning away from accreditation activities and is requiring facilities to use the national accrediting body.
- The radioactive materials fees were last updated in 2010, but that update was a reorganization of the fee structure to create initial and annual fees rather than separate inspection, renewal and initial fees. The fee change in 2010 did not result in an increase in overall fees, and radioactive materials (RAM) fees overall have not been increased since before 2007.
- The industrial radiography fees were last increased in 2007.

Although the fees have not significantly changed over the last 10 to 20 years or more, salaries and costs for programs continue to increase in line with inflation costs, which were represented by an approximately 55 percent increase from 1998 to 2018.

The fee increases adopted herein are not designed to add to the regulatory burden or to expand the programs but rather only to reset the fee structure to support existing staff and systems for licensing, registration and inspection activities already authorized and in place. Current program activities are in line with national practices established across all 50 states and led by the Conference for Radiation Control Program Directors. Further, the radioactive materials and mammography programs are delegated by federal agencies to states to regulate the states' respective licensees and are required to remain adequate and compatible with the national programs. Projections show that these adopted fee increases will address needs for projected expenses for the Bureau's programs when accounting for assumed inflation through FY 22, so additional solutions for funding the Acute Disease Prevention, Emergency Response, and Environmental Health Division's divisionwide database and adjusting for estimated increases in existing resources will also continue to be explored prior to FY 23.

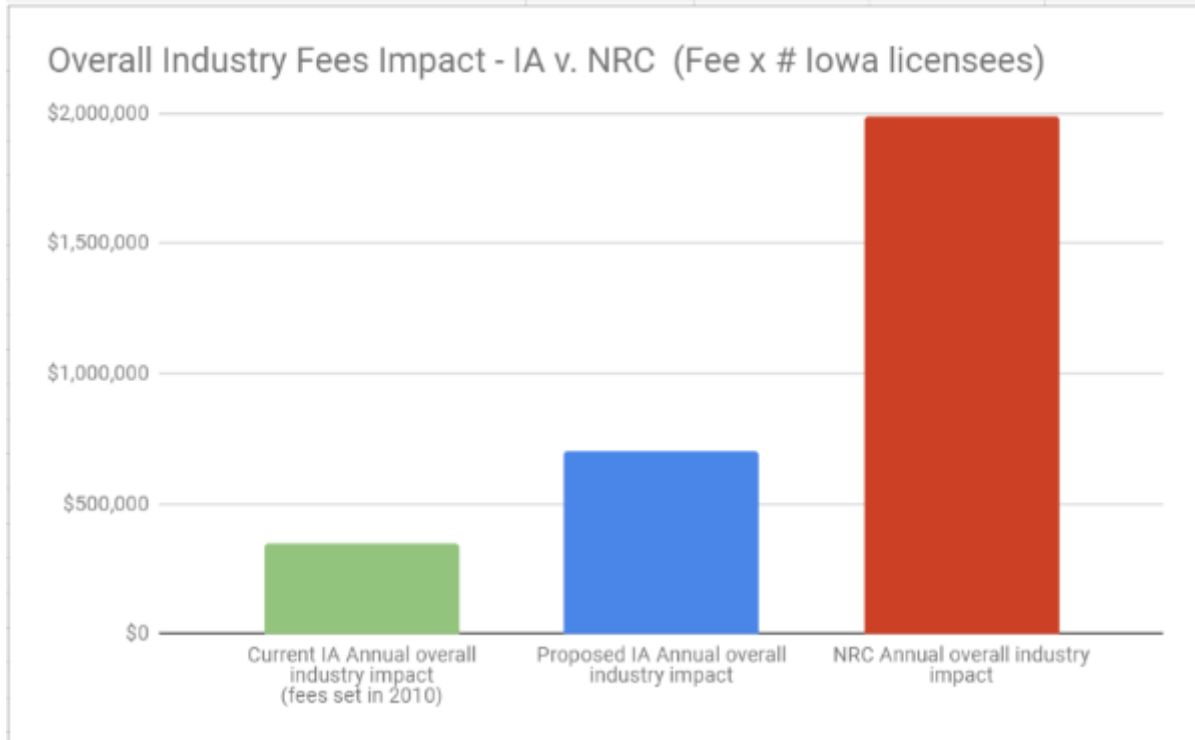
**NEED FOR INCREASE AND PROJECTED IMPACTS**

The Department delayed the implementation of fee increases for as long as possible through, in large part, the spenddown of an emergency reserve of funding that was generated over time. The intent of the emergency reserve funding was to set aside and maintain a funding source to pay for cleanup of abandoned or dispersed radioactive material. Cleanup of this nature could cost millions of dollars. While the risk of such an emergency cleanup is small, the impact and cost of such a cleanup would be significant, and the Department chose to delay fee increases as long as possible by pulling from the emergency reserve funding. The adopted fee increases do not include an adjustment to replace this emergency reserve funding; rather, the focus of the fee increases is to maintain a revenue versus program expenditure balance.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

The fees must be aligned to cover program costs at this time, or the Department, through staff reductions and reduced oversight of the use of radiation machines and radioactive materials in Iowa, would be forced to reduce the Bureau's ability to adequately protect the public from ionizing radiation. If the current fees were not changed, the Bureau's expenses would continue to outpace the income from fees by more than \$600,000 per year and result in a nearly \$800,000 shortfall by FY 20. The only other options for rectifying this deficit would be to stop the use of the online licensing system/database or to reduce staff. Neither of those options alone would completely address the shortfall or allow the Bureau's programs to continue to operate to protect public health and safety.

Reducing staffing costs by \$800,000 would result in the loss of nearly all of the Bureau's ten staff (currently, staffing accounts for about \$950,000 annually), which would severely restrict the work that could be performed by the programs. Most concerning is that this reduction of staff would limit the Bureau's ability to maintain adequate staffing to meet the requirements for program capacity as defined by the federal agreements in the radioactive materials and mammography programs. Registrations and audits for all programs would be greatly delayed, and inspections would not be able to be performed. The radioactive materials and mammography programs are delegations of federal regulations, so if the Bureau were unable to carry out activities for those programs, the federal agencies would resume regulation of the Iowa facilities. In that case, Iowa facilities would be forced to pay the federally established fees, which are up to 175 percent higher than the fee increases adopted in this rule making.



If fees were not aligned with current costs, the Division could also be forced to consider discontinuing the online licensing system, which would be an unfortunate waste of the investment of resources and funds used to create a more efficient divisionwide licensing system. This licensing database is poised to integrate with other Department licensing systems, which will allow for more efficiencies and potential cost savings for the majority of Department licensing. Without the database system, the processes for registration, licensing, and inspection would return to paper and mailing and the Division would be left without a database to manage the billing for online fee collection. This would require more staff time to be allocated to administrative functions, and staff would not be able to perform the audit and inspection processes required to ensure the proper use of radiation machines and radioactive materials to keep Iowans safe. In addition, the reduction of the licensing database costs alone would not close the

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

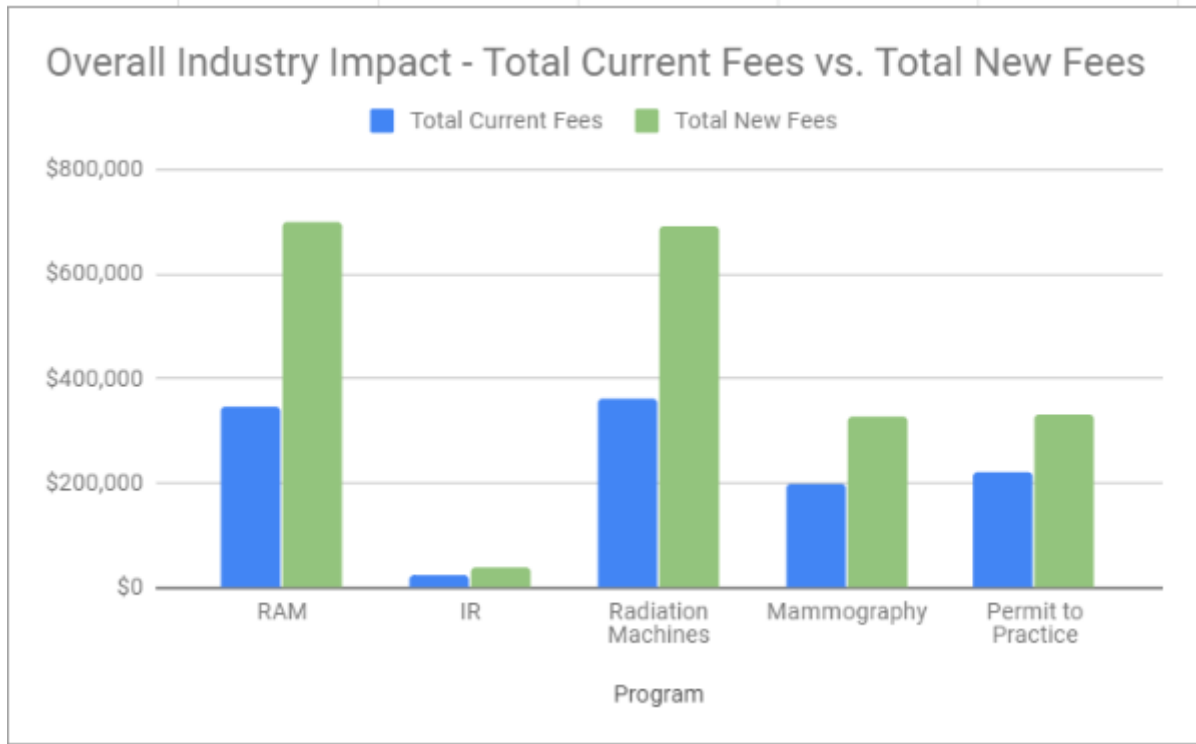
entire \$800,000 gap, so Bureau staff would also have to be reduced by more than one-fourth and reduced staff would be faced with a significant influx of paperwork to manage without a database.

PROCESS FOR FEE REVIEW AND ADOPTED INCREASES

The fees across all Bureau programs were evaluated and compared to fees from surrounding states and federal agencies that regulate the same radiation programs. As a result, some fees were removed, and other fees were increased in a range from 0 to 100 percent compared to existing levels, with an average increase of 81 percent across all programs, which will provide funding levels to cover expected inflation through FY 22. These new adopted fees are on average the same as surrounding states' fees and are 175 percent below Nuclear Regulatory Commission (NRC) fees for radioactive materials specifically. Overall, the industry impacts from these adopted fee increases for the programs are weighted as indicated in the following chart and graph and vary by registrant/licensee type within each program. For example, within the radiation machine program, the adopted fee increase for dental radiography machines is 55 percent (from \$39 to \$60) while the adopted fee increase for medical radiography machines is 135 percent (from \$51 to \$120), with the actual amount of the fee change as \$21 and \$69, respectively. In some cases, such as the \$500 reduction in the registration fee for food sterilization, fees were reduced to bring the fee more in line with the other accelerator fees.

Program	Total Current Fees	Total New Fees	% Increase	Overall # Registrants/Licensees
RAM	\$348,200	\$699,415	101%	337
Ionizing Radiation (IR)	\$25,800	\$40,314	56%	184
Radiation Machines	\$362,775	\$690,057	90%	8186
Mammography	\$198,419	\$328,346	65%	144
Permit to Practice	\$221,100	\$331,650	50%	4422
<b>TOTAL INCOME</b> (renewals/annual fees only)	\$1,156,294	\$2,089,782	81%	





*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on May 22, 2019, as **ARC 4446C**. A public hearing was held on June 17, 2019, at 10 a.m. in Room 418, Lucas State Office Building, Des Moines, Iowa. One person attended the public hearing but did not provide any comments.

Summary of Written Comments Received: The proposed rule making received over 2,000 views on the [rules.iowa.gov](http://rules.iowa.gov) website, and a total of 43 comments were received. The comments focused on three main concepts: questions regarding why the fees were not adjusted in smaller increments over time, requests for consideration of a phased implementation of the fee increases over the next few fiscal years, and support for fee adjustments to ensure continuation of the Bureau's programs. There were also comments regarding which programs should have increases; however, there was not a specific trend of comment consistency to indicate that fees for any one portion of the industry should be adjusted. One commenter expressed concern about duplication of services these fees covered for state programs in relation to the X-ray machine calibrations that require facilities to hire outside service providers and pay for those services. One commenter noted the typographical error for the radioactive material program fees for "Medical – Diagnostic & Therapy" and "Medical – Diagnostic, Therapeutic, Emerging Technologies."

Department's Response and Summary of Changes: All comments were reviewed by the Department. The Department considered the possibility of phasing in the fee increase over several fiscal years; however, this approach does not allow for program sustainment through FY 22 without providing other funding options to cover the projected shortfalls. The Department understands that the 81 percent increase in fees all at one time impacts industry and will make efforts to have better visualization on revenue and expenditures alignment by providing an annual report to the Board of Health to outline current program status.

In subrule 38.8(2) in Item 1, the fees for "Medical – Diagnostic & Therapy" and "Medical – Diagnostic, Therapeutic, Emerging Technologies" in the fee schedule were revised to correct the typographical/transcription error. The annual fee listed for "Medical – Diagnostic & Therapy" was

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

corrected from \$4,500 to \$4,000, and the annual fee listed for “Medical – Diagnostic, Therapeutic, Emerging Technologies” was corrected from \$4,000 to \$4,500. No other changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the State Board of Health on July 10, 2019.

*Fiscal Impact*

This rule making has a fiscal impact to the State of Iowa. There are no potential costs to the Department, but there is an overall increase of 81 percent in annual costs to the regulated radiation community (approx. \$930,000). Overall, increased fees will positively impact the Bureau’s ability to maintain operations to protect public health and safety through regulation of the operation and use of radiation machines and radioactive materials. The public will be positively impacted by continued assurance that the use of these radiation equipment and radioactive materials continues to be safe. The registrants and licensees may be adversely impacted by the increase in costs to their industry through the fee increases, but there would be a greater adverse impact if this modest fee increase were not approved and the federal fee structures and oversight were imposed on their industry. Specifically, for the radioactive materials licensees, the fiscal note for this rule making indicates the impact to the overall radioactive materials industry in Iowa if the NRC took back authority as compared to the adopted new fees for the Iowa radioactive materials program.

*Jobs Impact*

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

*Waivers*

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

*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 18, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend subrules 38.8(1) to 38.8(3) as follows:

**38.8(1) Radiation machines.**

a. Each registrant shall, at the time of registration and the anniversary date thereafter, as long as the registrant owns the radiation machine, remit to the agency a nonrefundable fee sufficient to defray the cost of registering the equipment with the department. All fees shall be paid annually ~~in the form of a~~ by credit card or by check or money order made payable to the Iowa Department of Public Health. The fees to be paid shall be in the amount computed by the following schedule:

PUBLIC HEALTH DEPARTMENT[641](cont'd)

## ANNUAL FEE SCHEDULE

Type of X-ray machine	Fee per tube	Maximum fee
1. Medical	<del>\$54</del> <u>\$120</u>	<del>\$1500</del> <u>\$3,000</u>
2. Osteopathy	<del>\$54</del> <u>\$120</u>	<del>\$1500</del> <u>\$3,000</u>
3. Chiropractic	<del>\$54</del> <u>\$120</u>	<del>\$1500</del> <u>\$3,000</u>
4. Dentistry	<del>\$39</del> <u>\$60</u>	<del>\$1000</del> <u>\$1,550</u>
5. Podiatry	<del>\$39</del> <u>\$75</u>	<del>\$1000</del> <u>\$2,000</u>
6. Veterinary Medicine	<del>\$25</del> <u>\$60</u>	—
7. (Industrial/Nonmedical Use)	<del>\$50</del> <u>\$100</u>	—
8. Food Sterilization	<del>\$1000</del> <u>\$500</u>	—
9. Accelerators and Electronic Brachytherapy Units	<del>\$100</del> <u>\$275</u>	—
10. Electron Microscope	<del>\$20</del> <u>\$40</u>	—
11. Bone Densitometry	<del>\$25</del> <u>\$55</u>	—

Fees for radiation machines not listed in the above schedule shall not be less than ~~\$50~~ \$120 per unit/tube.

b. Each registrant shall, where appropriate, pay the following special inspections/interpretation fee at the written request of the department:

(1) Mammography unit inspections fees:

➤ 1. ~~\$900~~ \$1,575 for the first unit and, if the facility has additional units at the address of the first unit, a fee of ~~\$325~~ \$375 for each additional unit; or

➤ 2. ~~\$900~~ \$1,575 per portable unit for each site where the unit is off-loaded and used and where the processing and patient films are stored; or

➤ 3. Dollar amount to be determined and justified by the department on a case-by-case basis for facilities which do not meet the above criteria; or

➤ 4. ~~\$450~~ \$675 for the second facility follow-up visit to review or determine the corrective action taken to address noncompliances; or

➤ 5. ~~\$900~~ \$1,575 for each stereotactic breast biopsy unit.

(2) Mammography interpretation fees of \$100 per mammography examination provided to the department for the purpose of determining film diagnostic quality.

(3) Industrial and oncology accelerator registrants and electronic brachytherapy registrants shall pay for each inspection a fee of ~~\$400~~ \$900 for the first unit and ~~\$100~~ \$225 for each additional unit.

(4) Industrial radiography X-ray units/walk-in cabinet radiography X-ray unit registrants shall pay for each inspection a fee of ~~\$250~~ \$450 for the first unit and ~~\$75~~ \$130 for each additional unit.

c. Each person who is engaged in the business of installing or offering to furnish radiation machines or is engaged in the business of furnishing or offering to furnish radiation machine servicing or service in the state shall apply for registration of such service with the agency prior to furnishing or offering to furnish any such service. Application shall be on a form provided by the department and include an annual nonrefundable fee of ~~\$400~~ \$200.

d. Each person engaged in providing health physics services in mammography in Iowa, who meets the requirements of 641—paragraph 41.6(3) “c” and is deemed qualified by this agency, must submit a ~~\$40~~ \$100 annual listing fee to this agency.

e. All mammography facilities providing services in Iowa must submit a ~~\$50~~ \$150 annual authorization certification fee.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

f. All Iowa-accredited facilities providing mammography services in Iowa must submit a \$200 accreditation fee for initial accreditation and each reaccreditation.

**38.8(2) Radioactive material fee schedule.** Fees associated with the possession and use of radioactive materials in Iowa shall not exceed those specified in 10 CFR 170.31 and 10 CFR 171.16. The following fee schedule shall apply.

	Program Code	Category	Type	New License Fee	Inspection Priority	Annual Fee
(3.L.)	01100	AAB	Academic Type A Broad	<del>\$5,000</del> \$5,400	1	<del>\$10,500</del> \$14,600
(8.A.)	03710	CD	Civil Defense	<del>\$1,000</del> \$2,500	5	<del>\$1,000</del> \$2,000
(3.E.)	03510	I1	Irradiators, Self-Shielding <10,000 Curies	<del>\$2,000</del> \$3,200	5	<del>\$650</del> \$2,600
(3.O.)	03320	IR1	Industrial Radiography – Temporary Job Sites	<del>\$4,500</del> \$3,100	1	<del>\$4,300</del> \$8,000
(3.P.)	03120	FG	Measuring Systems – Fixed Gauge	<del>\$1,300</del> \$3,400	5	<del>\$650</del> \$2,000
(3.P.)	03121	PG	Measuring Systems – Portable Gauge	<del>\$1,300</del> \$3,400	5	<del>\$650</del> \$2,000
(3.P.)	02410	IVL	<i>In-Vitro</i> Testing Laboratory	<del>\$1,300</del> \$3,400	5	<del>\$650</del> \$2,000
(7.C.)	02230	HDR	High Dose Rate Afterloader	<del>\$2,300</del> \$5,500	1	<del>\$3,400</del> \$5,100
(7.C.)	02120	M1	Medical – Diagnostic & Therapy	<del>\$2,300</del> \$5,500	3	<del>\$1,500</del> \$4,000
(7.C.)	02121	M2	Medical – Diagnostic Only	<del>\$2,300</del> \$5,500	4	<del>\$1,200</del> \$3,600
(7.C.)	02240	MET	Medical – Diagnostic, Therapeutic, Emerging Technologies	<del>\$2,300</del> \$5,500	2	<del>\$2,000</del> \$4,500
(3.S.)	03210	PET	Accelerator-Produced RAM	<del>\$3,000</del> \$7,500	1	<del>\$4,300</del> \$5,375
(3.C.)	02500	NP	Nuclear Pharmacy	<del>\$3,000</del> \$5,100	1	<del>\$3,500</del> \$7,700
(7.C.)	02231	NV1	Nuclear Medical Van	<del>\$2,300</del> \$4,140	2	<del>\$1,800</del> \$4,000
(7.C.)	22160	PMM	Pacemaker – By-Product and/or SNM	<del>\$2,300</del> \$2,600	T	Note 5
(3.M.)	03620	RD2	Research & Development – Other	<del>\$2,500</del> \$4,375	3	<del>\$1,350</del> \$4,000
(2.C.)	11300	SM1	Source Material, Other, >150 Kilograms	<del>\$6,000</del> \$2,600	3	<del>\$2,250</del> \$4,000
(1.D.)	22120	SNM2	SNM Plutonium – Neutron Source	<del>\$1,500</del> \$2,600	5	<del>\$500</del> \$3,750
(3.P.)	03221	CAL	Calibration and W/L Tests	<del>\$1,300</del> \$2,275	5	<del>\$650</del> \$3,900
(3.P.)	03122	XRF	X-Ray Fluorescent Analyzer	<del>\$1,300</del> \$2,275	7	<del>\$650</del> \$1,860
(3.P.)	02400	VMT	Veterinary Medicine – Therapy	<del>\$1,300</del> \$3,250	3	<del>\$650</del> \$3,900
(3.B.)	03214	MD	Manufacturing/Distribution	\$3,500	3	<del>\$1,800</del> \$3,980

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

## Notes:

1. Reciprocity fee is \$1,800 annually (180 days).
2. Inspection priorities are based on NRC inspection manual chapter 2800. Priority "T" is a telephonic contact and is not considered an inspection.
3. License amendment fee for all categories is ~~\$400~~ \$600.
4. Annual fees are due no later than September 1 of each year. A 10% late charge will be assessed per month for late payments. Licensees with more than two authorized locations of use will be charged an additional 10% of the annual fee per location.
5. Separate annual fees will not be assessed for pacemaker licenses issued to medical institutions that also hold nuclear medicine licenses with the agency.
6. General license registration fee is ~~\$250~~ \$700 annually on registration anniversary.

**38.8(3) Industrial radiography testing and certification.**

a. A nonrefundable fee of ~~\$175~~ \$275 shall be submitted with each application for taking an industrial radiography examination to become certified by the agency.

~~b. A fee of \$25 shall be submitted in order to replace lost identification cards issued to industrial radiographers by the agency pursuant to 641—subrule 45.1(10).~~

e. ~~b.~~ A nonrefundable fee of ~~\$75~~ \$120 shall be submitted with each application, not associated with an agency-administered industrial radiography examination, for a trainee or trainer card issued to a radiographer's assistant or an industrial radiographer.

ITEM 2. Amend subrule 38.8(8) as follows:

**38.8(8) Reciprocity.** Fees paid for reciprocal recognition of out-of-state persons wishing to utilize radiation machines or radioactive materials in Iowa shall allow the out-of-state person to operate for a total of 180 days during the 365-day reciprocity period starting the date the fee is received by the agency.

a. Radiation machines. Any out-of-state person who wishes to bring an X-ray machine or linear accelerators into the state to perform work or services shall pay a reciprocity fee of ~~\$100 for each source of radiation~~ \$500.

b. Radioactive materials. Out-of-state persons wishing to bring sources of radioactive material into Iowa for business purposes may be subject to a reciprocity fee depending on the type of activity to be performed and the type of radioactive materials license possessed (refer to 641—subrule 39.4(90)). If a reciprocity fee is applicable, it shall be assessed at the rate for reciprocity specified in the radioactive materials fee schedule available through the agency for each 365-day reciprocity period.

~~c. Industrial radiographers wishing to operate in Iowa under an identification card from a jurisdiction recognized by Iowa that charges Iowa card holders a fee will be assessed and must pay a \$100 fee prior to conducting industrial radiography in Iowa.~~

ITEM 3. Amend rule 641—42.5(136C) as follows:

**641—42.5(136C) Permit to practice as a general radiologic technologist.**

**42.5(1)** An individual applying for an initial permit shall:

- a. Be at least 18 years of age.
- b. Submit the appropriate completed application.
- c. Submit a nonrefundable ~~\$60~~ \$100 application fee.
- d. Submit proof of a passing score on the ARRT general radiography examination.

**42.5(2)** An individual renewing a current permit shall:

- a. Renew annually by submitting a renewal application and a nonrefundable ~~\$50~~ \$75 renewal fee.
- b. Report 24.0 hours of continuing education obtained within the biennium indicated on the individual's permit.

**42.5(3)** An individual reinstating an expired permit shall submit the following:

- a. Application to reinstate and nonrefundable ~~\$60~~ \$150 application fee. If the permit is expired six months or more, all previous exemptions from this chapter are no longer valid and the individual is subject to all requirements of subrule 42.5(1).

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

b. Any continuing education hours due at time of renewal. If the permit is expired more than one year past the expiration date, 24.0 hours of continuing education obtained within the previous 24 months must be submitted.

c. Proof that all stipulations of any order(s) of disciplinary or enforcement action have been satisfied.

ITEM 4. Amend rule 641—42.6(136C) as follows:

**641—42.6(136C) Permit to practice as a general nuclear medicine technologist.**

**42.6(1)** An individual applying for an initial permit shall:

- a. Be at least 18 years of age.
- b. Submit the appropriate completed application.
- c. Submit a nonrefundable ~~\$60~~ \$100 application fee.
- d. Submit proof of a passing score on ARRT's nuclear medicine examination or the NMTCB nuclear medicine examination.

**42.6(2)** An individual renewing a current permit shall:

- a. Renew annually by submitting a renewal application and a nonrefundable ~~\$50~~ \$75 renewal fee.
- b. Report 24.0 hours of continuing education obtained within the biennium indicated on the individual's permit.

**42.6(3)** An individual reinstating an expired permit shall submit the following:

- a. Application to reinstate and nonrefundable ~~\$60~~ \$150 application fee. If the permit is expired six months or more, all previous exemptions from this chapter are no longer valid and the individual is subject to all requirements of subrule 42.6(1).

b. Any continuing education hours due at time of renewal. If the permit is expired more than one year past the expiration date, 24.0 hours of continuing education obtained within the previous 24 months must be submitted.

c. Proof that all stipulations of any order(s) of disciplinary or enforcement action have been satisfied.

**42.6(4)** An individual applying for a nuclear medicine diagnostic computed tomography endorsement shall:

- a. Maintain an active permit to practice as a general nuclear medicine technologist. Endorsements may not be held without an active permit.
- b. Submit proof of a passing score on the ARRT or NMTCB computed tomography examination.

ITEM 5. Amend rule 641—42.7(136C) as follows:

**641—42.7(136C) Permit to practice as a radiation therapist.**

**42.7(1)** An individual applying for an initial permit shall:

- a. Be at least 18 years of age.
- b. Submit the appropriate completed application.
- c. Submit a nonrefundable ~~\$60~~ \$100 application fee.
- d. Submit proof of a passing score on the ARRT's radiation therapy examination.

**42.7(2)** An individual renewing a current permit shall:

- a. Renew annually by submitting a renewal application and a nonrefundable ~~\$50~~ \$75 renewal fee.
- b. Report 24.0 hours of continuing education obtained within the biennium indicated on the individual's permit.

**42.7(3)** An individual reinstating an expired permit shall submit the following:

- a. Application to reinstate and nonrefundable ~~\$60~~ \$150 application fee. If the permit is expired six months or more, all previous exemptions from this chapter are no longer valid and the individual is subject to all requirements of subrule 42.7(1).

b. Any continuing education hours due at time of renewal. If the permit is expired more than one year past the expiration date, 24.0 hours of continuing education obtained within the previous 24 months must be submitted.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

c. Proof that all stipulations of any order(s) of disciplinary or enforcement action have been satisfied.

ITEM 6. Amend rule 641—42.8(136C) as follows:

**641—42.8(136C) Permit to practice as a radiologist assistant.**

**42.8(1)** An individual applying for an initial permit shall:

- a. Submit the appropriate completed application.
- b. Submit a nonrefundable ~~\$60~~ \$100 application fee.
- c. Submit proof of completion of formal education for a radiologist assistant.
- d. Submit proof of one year of experience as a general radiologic technologist.
- e. Submit proof of passing score on the ARRT radiologist assistant examination or another examination that is recognized by the department.

**42.8(2)** An individual renewing a current permit shall:

- a. Renew annually by submitting a renewal application and a nonrefundable ~~\$50~~ \$75 renewal fee.
- b. Report 50.0 hours of continuing education obtained within the biennium indicated on the individual's permit. Radiologist assistant permit holders must obtain at least one-half of the required continuing education in subject areas specific to radiography. The remainder may be earned as physician credit hours.

**42.8(3)** An individual reinstating an expired permit shall submit the following:

- a. Application to reinstate and nonrefundable ~~\$60~~ \$150 application fee. If the permit is expired six months or more, all previous exemptions from this chapter are no longer valid and the individual is subject to all requirements of subrule 42.8(1).
- b. Any continuing education hours due at time of renewal. If the permit is expired more than one year past the expiration date, 50.0 hours of continuing education obtained within the previous 24 months must be submitted.
- c. Proof that all stipulations of any order(s) of disciplinary or enforcement action have been satisfied.

ITEM 7. Amend subrules 42.9(2) to 42.9(4) as follows:

**42.9(2)** An individual applying for an initial permit shall:

- a. Be at least 18 years of age.
- b. Submit the appropriate completed application.
- c. Submit a nonrefundable ~~\$60~~ \$100 application fee.
- d. Submit proof of completion of formal education in all limited diagnostic radiography categories for which the individual is applying. In order to apply for the shoulder category, the individual must also apply for the chest or extremity category. In order to apply for the pediatric category, the individual must also apply for the chest or extremity category. Each individual making application to attend a formal education course provided by the department to fulfill the requirements of 42.9(2)“d” must submit an application and nonrefundable fee of \$200 to the department each time the individual attends a course.
- e. Submit proof of completion of testing as applicable for each permit category for which the individual is applying on the limited radiologic technologist permit. No examination is required for the categories of shoulder or pediatric.

(1) The following are passing scores:

1. A score of at least 70 percent on the ARRT limited scope of practice in radiography examination core section and at least 70 percent on each category; or
  2. A score of at least 70 percent on the American Chiropractic Registry of Radiologic Technologists Limited Radiography examination; or
  3. A score of at least 70 percent on a department-approved examination.
- (2) Three failed attempts on the examination in 42.9(2)“e”(1)“1” or “3” will require the individual to repeat the formal education or complete a department-approved review program.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

(3) Each individual making application to take an examination as a limited radiologic technologist in 42.9(2)“e”(1)“1” or “3” must submit an application and nonrefundable fee of ~~\$135~~ \$200 to the department each time the individual takes the examination.

*f.* Submit proof of completion of formal education and examination in the category to be added and a nonrefundable ~~\$25~~ \$40 amendment fee to add chest, extremity or spine category to an existing limited radiologic technologist permit. A score of at least 70 percent on each category is required.

*g.* Submit proof of completion of formal education and a nonrefundable ~~\$25~~ \$40 amendment fee to add shoulder or pediatric category to an existing limited radiologic technologist permit. No examination is required.

**42.9(3)** An individual renewing a current permit shall:

*a.* Renew annually by submitting a renewal application and a nonrefundable ~~\$50~~ \$75 renewal fee.

*b.* Report 12.0 hours of continuing education obtained within the biennium indicated on the individual's permit.

**42.9(4)** An individual reinstating an expired permit shall submit the following:

*a.* Application to reinstate and nonrefundable ~~\$60~~ \$150 application fee. If the permit is expired six months or more, all previous exemptions from this chapter are no longer valid and the individual is subject to all requirements of rule 641—42.9(136C).

*b.* Any continuing education hours due at time of renewal. If the permit is expired more than one year past the expiration date, 12.0 hours of continuing education obtained within the previous 24 months must be submitted.

*c.* Proof that all stipulations of any order(s) of disciplinary or enforcement action have been satisfied.

ITEM 8. Amend subrules 42.10(1) to 42.10(3) as follows:

**42.10(1)** An individual applying for an initial permit shall:

*a.* Be at least 18 years of age.

*b.* Submit the completed application.

*c.* Submit a nonrefundable ~~\$25~~ \$40 application fee.

*d.* Submit proof of completion of a formal education that meets the department minimum training standards. Each individual making application to attend an X-ray equipment operator formal education course provided by the department to fulfill the requirement of 42.10(1)“d” must submit an application and nonrefundable fee of \$150 to the department each time the individual attends the course.

*e.* Submit proof of at least a 70 percent score on a department-approved examination.

(1) All podiatric X-ray equipment operators must pass the examination with a 70 percent score. After January 1, 2015, all bone densitometry equipment operators must submit proof of at least a 70 percent score on a department-approved examination.

(2) Three failed attempts on the examination in 42.10(1)“e”(1) will require the individual to repeat the formal education or complete a department-approved review program.

(3) Each individual making application to take an examination as an X-ray equipment operator to meet the requirements of 42.10“e”(1) must submit an application and nonrefundable fee of \$100 to the department each time the individual takes the examination.

**42.10(2)** An individual renewing a current permit shall:

*a.* Renew annually by submitting a renewal application and a nonrefundable ~~\$25~~ \$40 renewal fee.

*b.* Report 4.0 hours of continuing education obtained within the biennium indicated on the individual's permit.

**42.10(3)** An individual reinstating an expired permit shall submit the following:

*a.* Application to reinstate and nonrefundable ~~\$25~~ \$75 application fee. If the permit is expired six months or more, all previous exemptions from this chapter are no longer valid and the individual is subject to all requirements of subrule 42.10(1).

*b.* Any continuing education hours due at time of renewal. If the permit is expired more than one year past the expiration date, 4.0 hours of continuing education obtained within the previous 24 months must be submitted.



## PUBLIC HEALTH DEPARTMENT[641](cont'd)

c. Proof that all stipulations of any order(s) of disciplinary or enforcement action have been satisfied.

ITEM 9. Amend rule 641—42.12(136C) as follows:

**641—42.12(136C) Closed classification or category permits.**

**42.12(1)** The following classifications or categories are closed to new applicants. Permits in the following classifications or categories that are expired for more than six months are not eligible to be reinstated, and individuals shall maintain current permits as outlined below:

a. Limited in-hospital radiologic technologist shall:

(1) Perform diagnostic radiography procedures, excluding CT and fluoroscopy, in a hospital setting only for specific body parts for which the individual is qualified.

(2) Renew annually by submitting a renewal application and a nonrefundable \$50 \$75 renewal fee.

(3) Report 24.0 hours of continuing education obtained within the biennium indicated on the individual's permit.

b. Limited nuclear medicine technologist shall:

(1) Perform nuclear medicine procedures for which the individual is qualified and has been authorized by the department.

(2) Renew annually by submitting a renewal application and a nonrefundable \$50 \$75 renewal fee.

(3) Report 12.0 hours of continuing education obtained within the biennium indicated on the individual's permit.

c. Limited radiologic technologist paranasal sinus shall:

(1) Perform diagnostic radiography procedures, excluding CT and fluoroscopy, specific to paranasal sinus.

(2) Renew annually by submitting a renewal application and a nonrefundable \$50 \$75 renewal fee.

(3) Report 6.0 hours of continuing education obtained within the biennium indicated on the individual's permit.

**42.12(2)** An individual renewing a permit expired less than six months shall submit the following:

a. Application to reinstate and nonrefundable \$60 \$150 application fee.

b. Any continuing education hours due at time of renewal.

c. Proof that all stipulations of any order(s) of disciplinary or enforcement action have been satisfied.

ITEM 10. Amend rule 641—42.13(136C) as follows:

**641—42.13(136C) Combining permits for an individual qualifying for permits in more than one classification.**

**42.13(1)** An individual applying for an initial permit in more than one classification at the same time shall combine classifications on one permit by:

a. Indicating each classification on the appropriate completed application;

b. Submitting the required documentation for each classification as outlined in each classification section; and

c. Submitting a nonrefundable \$100 \$150 application fee.

**42.13(2)** Permit holders shall add a classification to an existing permit by:

a. Completing the appropriate application;

b. Submitting the required documentation as outlined in the section specific to the classification to be added; and

c. Submitting a nonrefundable \$25 \$40 fee.

**42.13(3)** An individual renewing a combined classification permit must submit the appropriately completed renewal application and submit a nonrefundable \$75 \$110 renewal fee.

**42.13(4)** An individual shall submit a total of 24.0 hours of continuing education obtained within the biennium indicated on the individual's permit. If the permit includes the radiologist assistant

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classification, then the individual must submit a total of 50.0 hours of continuing education obtained within the biennium indicated on the individual's permit.

[Filed 7/15/19, effective 9/18/19]

[Published 8/14/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/14/19.

**ARC 4613C**

**PUBLIC HEALTH DEPARTMENT[641]**

**Adopted and Filed**

**Rule making related to the state mechanical code**

The Plumbing and Mechanical Systems Board hereby amends Chapter 61, "State Mechanical Code," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 105.4.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 105.4.

*Purpose and Summary*

The amendments include the adoption by reference of the International Mechanical Code, 2018 Edition. The Board previously adopted the 2015 edition of the International Mechanical Code (IMC). The Board is required to adopt the most recent version of the IMC by law. In addition, the amendments incorporate other clarifications to the state mechanical code that were suggested by public comment. These changes are relatively minor technical changes to better align the IMC with current practice.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on May 22, 2019, as **ARC 4448C**. A public hearing was held on June 11, 2019, at 3 p.m. in Room 518, Lucas State Office Building, Des Moines, Iowa. No one attended the public hearing. The Board received two written comments during the public comment period. The Board's responses to those comments are as follows.

**Issue: Overall Adoption of the International Mechanical Code**

Public Comment

One comment was received. The commenter stated support for "the proposed rulemaking related to the state mechanical code."

Board Response

No response necessary.

**Issue: Permit, Inspection, Testing, and Enforcement Provisions**

The Board's rule making establishes the scope of the adopted code as follows: "Local jurisdictions may administer the permit, inspection, testing, and enforcement provisions contained in this code. Permit, inspection, testing, and enforcement provisions contained in this code shall not be administered by the Plumbing and Mechanical Systems Board or the state."

Public Comment

One comment was received. The commenter urged the Board not to limit the adopted code's scope by clarifying that no state inspections will occur. The commenter pointed out that a bill introduced in the past legislative session, 2019 Iowa Acts, House File 639, would establish and implement state

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

inspections, and so the Board would have to remove the scope limitation if House File 639 passes the Legislature in 2020.

Board Response

The Board may eliminate the scope limitation at a later time if House File 639 passes the Legislature during the 2020 Legislative Session, but prefers to wait and see if the bill in fact passes. If the Legislature enacts House File 639, the language in the rule may automatically be superseded. When a statute and a rule conflict, the statute prevails. A statute that implements state inspections would supersede a rule that says no state inspections will occur. The Board made no changes in response to this comment.

After considering the public comments and responding to them, the Board adopted most of the amendments. However, the Board did not adopt some amendments that were proposed in the Notice. The Board decided that further discussion about and review of these amendments is necessary before moving forward with them in a future rule making. The following amendments that were noticed in **ARC 4448C** were not adopted:

1. Proposed subrule 61.2(12), paragraphs “9” and “10” only. Paragraph “11” was renumbered as “9” and adopted.
2. Proposed subrules 61.2(13) and 61.2(14). The subsequent subrules were renumbered accordingly.

*Adoption of Rule Making*

This rule making was adopted by the Board on July 16, 2019.

*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 the Board’s general waiver provisions contained in 641—Chapter 31.

*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 18, 2019.

The following rule-making action is adopted:

Amend rule 641—61.2(105) as follows:

**641—61.2(105) Adoption by reference.** The provisions of the International Mechanical Code, ~~2015~~ 2018 edition, published by the International Code Council, 4051 West Flossmoor Road, Country Club Hills, IL 60478, are hereby adopted by reference as the requirements for the design, installation, maintenance, alteration, and inspection of mechanical systems that are permanently installed and

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

utilized to provide control of environmental conditions and related processes within buildings, with the following amendments:

**61.2(1)** Delete section 101.1.

**61.2(2)** In section 101.2, delete the phrase “International Fuel Gas Code” and insert in lieu thereof “NFPA 54, National Fuel Gas Code, 2015 edition; NFPA 58, Liquefied Petroleum Gas Code, 2014 edition; the provisions of 661—Chapter 226; and the state plumbing code.”

**61.2(3)** Delete sections 103, 104, 105, 106, 107, 108, 109, and 110 and sections therein. section 103 and insert in lieu thereof the following new section 103.1:

**103.1 Local authority.** Local jurisdictions may administer the permit, inspection, testing, and enforcement provisions contained in this code. Permit, inspection, testing, and enforcement provisions contained in this code shall not be administered by the Plumbing and Mechanical Systems Board or the state.

**61.2(4)** Amend section 304.11 by deleting the last sentence and inserting in lieu thereof the following new exception:

Exception: Guards are not required where permanent fall arrest/restraint anchorage connector devices that comply with ANSI/ASSE Z 359.1 are affixed for use during the entire lifetime of the roof covering. The devices shall be evaluated for possible replacement when the entire roof covering is replaced. The devices shall be placed not more than 10 feet (3048 mm) on center along hip and ridge lines and placed not less than 10 feet (3048 mm) from roof edges and the open sides of walking surfaces.

**61.2(5)** Delete section 306.2 and insert in lieu thereof the following new section:

**306.2 Appliances in rooms and closets.** Rooms and closets containing appliances shall be provided with a door and an unobstructed passageway measuring not less than 36 inches wide and 80 inches high. A level service space not less than 30 inches deep and 30 inches wide shall be present at the front service side of the appliance with the door open.

**61.2(4) 61.2(6)** Delete section 401.1 and insert in lieu thereof the following new section:

**401.1 Scope.** This chapter shall govern the ventilation of spaces within a building intended to be occupied. These buildings shall meet either the requirements of ASHRAE Standard 62.1, “Ventilation for Acceptable Indoor Air Quality,” ~~2013~~ 2016 edition, published by the American Society of Heating, Refrigeration, and Air-Conditioning Engineers, 1791 Tullie Circle N.E., Atlanta, GA 30329, or the requirements contained in this chapter. Mechanical exhaust systems, including exhaust systems serving clothes dryers and cooking appliances; hazardous exhaust systems; dust, stock, and refuse conveyor systems; subslab soil exhaust systems; smoke control systems; energy recovery ventilation systems; and other systems specified in Section 502 shall comply with Chapter 5.

**61.2(5) 61.2(7)** Add the following footnote “i” related to the gym, stadium, arena (play area) category of the sports and amusement occupancy classification in Table ~~403.3~~ 403.3.1.1, Minimum Ventilation Rates:

i. When combustion equipment is intended to be used on the playing surface, additional dilution ventilation and/or source control shall be provided.

**61.2(8)** Add the following footnote “j” to Table 403.3.1.1 anywhere the term “smoking lounges” appears:

j. For ventilation purposes, “smoking” includes both combustible tobacco products and accessories and electronic smoking devices and accessories.

**61.2(6) 61.2(9)** Delete section 504.8.2 and insert in lieu thereof the following new section:

**504.8.2 Duct ~~Installation~~ installation.** Exhaust ducts shall be supported at 4-foot (1219 mm) intervals and secured in place. The insert end of the duct shall extend into the adjoining duct or fitting in the direction of airflow. Ducts shall not be joined by screws or similar fasteners that protrude into the inside of the duct.

**61.2(10)** Delete subsection 506.3.13.3 and insert in lieu thereof the following new subsection:

**506.3.13.3 Termination location.** Exhaust outlets shall be located not less than 10 feet (3048 mm) horizontally from parts of the same or contiguous buildings, adjacent buildings and adjacent property lines and shall be located not less than 10 feet (3048 mm) above the adjoining grade level. Exhaust

PUBLIC HEALTH DEPARTMENT[641](cont'd)

outlets shall be located not less than 20 feet horizontally/vertically from or not less than 5 feet above air intake openings and operable doors and windows into any building.

**61.2(11)** Delete section 508.1.1 and insert in lieu thereof the following new section:

**508.1.1 Makeup air temperature.** All kitchen makeup air systems shall be verified by a certified TAB (testing and balance) contractor to heat makeup air to within 10 degrees of room temperature set point. The TAB contractor shall be certified by NEBB, TABB, or other certifying organization as approved by the Authority Having Jurisdiction.

**61.2(12)** Amend section 601.5 by adopting new paragraph “9” as follows:

9. Return air openings shall be located at least 18 inches from supply air openings. Air throw shall be directed away from return air openings to reduce short cycling of air. Exception: Factory-made concentric duct terminations.

**61.2(13)** Delete section 604.3 and insert in lieu thereof the following new section:

**604.3 Coverings and linings.** Coverings and linings, including adhesives where used, shall have a flame spread index of not more than 25 and a smoke-development index of not more than 50, when tested in accordance with ASTM E84 or UL 723, using the specimen preparation and mounting procedures of ASTM E2231. Duct coverings and linings shall not flame, glow, smolder or smoke when tested in accordance with ASTM C411 at the temperature to which they are exposed in service. The testing temperature shall not fall below 250°F (121°C). Coverings and linings shall be listed and labeled. The use of an air gap to meet R-value requirements for duct insulation shall be prohibited.

**61.2(7) 61.2(14)** Delete appendices A and appendix B.

**61.2(8) 61.2(15)** Delete all references to the “International Plumbing Code” and insert in lieu thereof “state plumbing code.”

[Filed 7/17/19, effective 9/18/19]

[Published 8/14/19]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 8/14/19.

**ARC 4614C**

## **REVENUE DEPARTMENT[701]**

### **Adopted and Filed**

#### **Rule making related to like-kind exchanges of personal property**

The Revenue Department hereby amends Chapter 40, “Determination of Net Income,” Chapter 53, “Determination of Net Income,” and Chapter 59, “Determination of Net Income,” Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 422.68.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 422.7; 2018 Iowa Acts, Senate File 2417; and 2019 Iowa Acts, House File 779.

#### *Purpose and Summary*

These rules implement the temporary nonconformity of Iowa’s tax laws to the federal repeal of gain or loss deferral from exchanges of like-kind personal property in tax year 2018, and implement 2018 Iowa Acts, Senate File 2417, and 2019 Iowa Acts, House File 779, which, in part, provide an election to taxpayers to defer gain or loss from exchanges of like-kind personal property in tax year 2019.

## REVENUE DEPARTMENT[701](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 June 19, 2019, as **ARC 4500C**. No public comments were received. Technical corrections have been made in these adopted rules. The Notice of Intended Action proposed to adopt new rules 701—40.82(422) and 701—59.25(422), but those rule numbers are already in use. Therefore, the relevant substantive language has instead been adopted in rules 701—40.83(422) and 701—59.10(422) respectively, and applicable cross references to those rules have been corrected. Apart from these nonsubstantive technical corrections, no changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Department on July 24, 2019.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa beyond that of the legislation it implements. The Fiscal Note for 2018 Iowa Acts, Senate File 2417, does not provide a separate estimate for the cost of these specific provisions, only an aggregate impact of all income tax changes included in that legislation. The Department provided an additional fiscal estimate to the Legislative Services Agency on June 10, 2019, which estimated that the relevant provisions of 2018 Iowa Acts, Senate File 2417, will decrease General Fund revenues by \$4.8 million in FY 2018, \$11.2 million in FY 2019, and \$6.3 million in FY 2020. The Fiscal Note for 2019 Iowa Acts, House File 779, estimates that the Iowa Code changes implemented by this rule making will decrease General Fund revenues by \$200,000 in FY 2019 and \$700,000 in FY 2020.

*Jobs Impact*

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

*Waivers*

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

*Review by Administrative Rules Review Committee*

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

*Effective Date*

This rule making will become effective on September 18, 2019.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** rule 701—40.83(422):

**701—40.83(422) Like-kind exchanges of personal property completed after December 31, 2017, but before tax periods beginning on or after January 1, 2020.**

**40.83(1) In general.** Public Law 115-97, Section 13303, repealed the deferral of gain or loss from exchanges of like-kind personal property for federal purposes under Section 1031 of the Internal Revenue Code. This federal repeal applies to exchanges completed after December 31, 2017, unless the taxpayer

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

began the exchange by transferring personal property or receiving replacement personal property on or before that date. Iowa did not conform to this federal repeal for Iowa individual income tax purposes for tax periods beginning before January 1, 2019. For tax years beginning on or after January 1, 2019, but before January 1, 2020, Iowa generally conforms to the federal treatment of gain or loss from exchanges of like-kind personal property, but eligible taxpayers may elect the treatment that applied under prior federal law for Iowa purposes. For tax years beginning on or after January 1, 2020, Iowa fully conforms to the federal treatment for these exchanges, and no special election is available. This rule governs exchanges of like-kind personal property completed after December 31, 2017, but before tax periods beginning on or after January 1, 2020. This rule does not apply to exchanges completed during any tax year beginning on or after January 1, 2020.

**40.83(2) Qualification.** Section 1031 of the Internal Revenue Code in effect on December 21, 2017, and any applicable federal regulations govern whether transactions involving the disposition and acquisition of personal property qualify for Iowa individual income tax purposes as a like-kind exchange of personal property subject to the deferral of gain or loss, and also govern the date and tax period during which an exchange is considered completed. The treatment of such transactions as a like-kind exchange for Iowa individual income tax purposes is either mandatory or permissive depending on the date the like-kind exchange is completed.

*a. Like-kind exchanges completed after December 31, 2017, but before tax periods beginning on or after January 1, 2019.* Transactions involving the disposition and acquisition of personal property that qualify under this subrule as a like-kind exchange completed after December 31, 2017, but before tax periods beginning on or after January 1, 2019, are required to be treated as a like-kind exchange for Iowa individual income tax purposes.

*b. Like-kind exchanges completed during tax periods beginning on or after January 1, 2019, but before January 1, 2020.* For tax periods beginning on or after January 1, 2019, Iowa is conformed to the federal repeal of deferral of gain or loss from exchanges of like-kind personal property, so the federal and Iowa treatment of such transactions under Section 1031 of the Internal Revenue Code will generally be the same. However, transactions involving the disposition and acquisition of personal property that qualify under this subrule as a like-kind exchange completed during tax periods beginning on or after January 1, 2019, but before January 1, 2020, may at the election of the taxpayer be treated as a like-kind exchange for Iowa individual income tax purposes. The election is made by completing the necessary worksheets and forms and making the required adjustments on the Iowa return as described in subrule 40.83(3). No special attachment or statement is required. The election only applies to the transactions involved in the like-kind exchange, and the taxpayer may elect or not elect to treat other qualifying transactions as a like-kind exchange for Iowa purposes.

**40.83(3) Calculation and Iowa adjustments.** A taxpayer required to or electing to treat qualifying transactions as a like-kind exchange for Iowa tax purposes must make certain Iowa calculations and adjustments on forms and worksheets made available on the department's website. The IA 8824 Worksheet described in this subrule need not be included with the Iowa return but must be kept with the taxpayer's records. The taxpayer is responsible for providing documentation at the department's request to substantiate a like-kind exchange under this rule.

*a. Like-kind exchange calculation.* The taxpayer must complete Parts I and II of the IA 8824 Worksheet to compute the Iowa recognized gain, if any, the Iowa deferred gain or loss, and the Iowa basis of the like-kind personal property received in the like-kind exchange.

EXAMPLE 1: X, a sole proprietor engaged in commercial farming and filing on a calendar-year basis, trades a tractor with a fair market value (FMV) of \$25,000 along with \$75,000 in cash to Y for a new tractor with an FMV of \$100,000. For purposes of this example it is assumed that the tractor trade occurs in 2019 and qualifies as a like-kind exchange and that X elects such treatment for Iowa individual income tax purposes under paragraph 40.83(2) "b." At the time of the trade, the adjusted basis of X's old tractor is \$0 for federal tax purposes and is \$13,680 for Iowa tax purposes. X realizes a gain for Iowa purposes on the exchange of the old tractor in the amount of \$11,320 (\$100,000 FMV of new tractor - \$75,000 cash paid - \$13,680 Iowa adjusted basis of old tractor). Because X did not receive any cash or other property that was not like-kind, or assume any liabilities from Y, the entire amount of X's \$11,320 realized gain

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

qualifies for deferral, so X recognizes \$0 of gain on the exchange for Iowa tax purposes. As a result, X's basis in the new tractor for Iowa tax purposes is \$88,680 (\$13,680 Iowa adjusted basis of old tractor + \$75,000 cash paid by X).

*b. Iowa nonconformity adjustment.*

(1) The taxpayer must complete Part III of the IA 8824 Worksheet to adjust for the difference between any recognized Iowa gain from the exchange as calculated on the IA 8824 Worksheet, Part II, and any gain or loss (including gain or loss recaptured as ordinary income) recognized on the taxpayer's federal return.

EXAMPLE 2: Assume the same facts as given in Example 1. Because the tractor trade occurred in 2019, it will not qualify as a like-kind exchange for federal tax purposes but will instead be treated as two separate transactions: a sale of the old tractor and a purchase of the new tractor. X recognizes a gain for federal tax purposes on the sale of the old tractor in the amount of \$25,000 (\$25,000 sales price of old tractor - \$0 federal adjusted basis of old tractor), the entire amount of which is recaptured as ordinary income because of prior depreciation. X reports the \$25,000 of income on the federal return. X is required to report the same \$25,000 as income on the Iowa return but is also allowed a \$25,000 subtraction on the same Iowa return because X's recognized gain for Iowa tax purposes is \$0 as calculated in Example 1. X's nonconformity adjustment of -\$25,000 must be reported on the Iowa return in the manner prescribed on the IA 8824 Worksheet.

(2) If the total recognized federal gain is reported using the installment sale method under Section 453 of the Internal Revenue Code, the total amount of any Iowa nonconformity adjustment related to that federal gain must be claimed over the same installment period, and the proportion of the total Iowa nonconformity adjustment claimed for each tax year shall equal the same proportion that the federal gain reported for that tax year bears to the total amount of federal gain that will ultimately be reported for all tax years resulting from the disposition of the personal property. The taxpayer must complete an IA 8824 Worksheet for each tax year that an Iowa nonconformity adjustment is claimed.

*c. Cost recovery adjustments.*

(1) The taxpayer must complete the IA 4562A to account for any differences between the federal and Iowa cost recovery deductions related to the like-kind personal property involved in the like-kind exchange, including if the taxpayer's basis in the like-kind personal property received is different for federal and Iowa purposes, or if the taxpayer claimed additional first-year depreciation or a section 179 deduction for federal purposes on the like-kind property received in the exchange. See rule 701—40.60(422) for requirements related to the disallowance of additional first-year depreciation for Iowa individual income tax purposes. See rule 701—40.65(422) for the section 179 limitations imposed under the Iowa individual income tax.

(2) Treasury Regulation §1.168(i)-6 prescribes rules related to the calculation of depreciation for certain assets involved in a like-kind exchange, but a taxpayer may elect to not have those rules apply pursuant to Treasury Regulation §1.168(i)-6(i). A taxpayer may choose to make a similar election under Treasury Regulation §1.168(i)-6(i) for Iowa tax purposes with regard to a like-kind exchange under this rule if the personal property otherwise would have qualified for such federal election notwithstanding the fact that no like-kind exchange occurred for federal purposes or the fact that no election was actually made for federal tax purposes in accordance with Treasury Regulation §1.168(i)-6(j). The election is made by calculating depreciation for Iowa tax purposes on the personal property involved in the like-kind exchange using the method described in Treasury Regulation §1.168(i)-6(i) on the timely filed Iowa return, including extensions, for the same tax year that the like-kind exchange was completed. No special attachment or statement is required.

EXAMPLE 3: Assume the same facts as given in Examples 1 and 2. X elects additional first-year depreciation on the new tractor and claims a depreciation deduction on the federal return of \$100,000 (100 percent of X's federal basis). X is required to add back the total amount of the federal depreciation on the Iowa return because Iowa does not allow additional first-year depreciation. But X is permitted deductions for regular depreciation on the new tractor with an Iowa basis of \$88,680 (\$13,680 carryover basis from old tractor + \$75,000 excess basis from cash paid) under Section 168 of the Internal Revenue



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

Code, without regard to bonus depreciation under Section 168(k). See rule 701—40.60(422) for more information on the disallowance of additional first-year depreciation.

EXAMPLE 4: Assume the same facts as given in Examples 1 and 2. X elects to expense the entire cost of the new tractor under Section 179 of the Internal Revenue Code and claims a deduction on the federal return of \$100,000. X is also required to claim the section 179 deduction on the new tractor for Iowa tax purposes pursuant to subrule 40.65(2). However, the amount that represents the carryover basis from the old tractor (\$13,680) is not eligible for the deduction under Section 179(d)(3) of the Internal Revenue Code, so the cost of the new tractor that is eligible for the section 179 deduction for Iowa purposes is only \$75,000 (excess basis from cash paid). This is the amount of section 179 deduction that X must claim on the Iowa return, subject to the applicable Iowa dollar limitation and reduction limitations in rule 701—40.65(422). Because X is the taxpayer who placed the new tractor in service, X is permitted deductions for regular depreciation on the carryover basis in the new tractor (\$13,680) under Section 168 of the Internal Revenue Code, without regard to bonus depreciation under Section 168(k).

This rule is intended to implement Iowa Code section 422.7 as amended by 2018 Iowa Acts, chapter 1161 [Senate File 2417].

ITEM 2. Adopt the following new rule 701—53.27(422):

**701—53.27(422) Like-kind exchanges of personal property completed after December 31, 2017, but before tax periods beginning on or after January 1, 2020.**

**53.27(1) *In general.*** Public Law 115-97, Section 13303, repealed the deferral of gain or loss from exchanges of like-kind personal property for federal purposes under Section 1031 of the Internal Revenue Code. This federal repeal applies to exchanges completed after December 31, 2017, unless the taxpayer began the exchange by transferring personal property or receiving replacement personal property on or before that date. Iowa did not conform to this federal repeal for Iowa corporation income tax purposes for tax periods beginning before January 1, 2019. For tax years beginning on or after January 1, 2019, but before January 1, 2020, Iowa generally conforms to the federal treatment of gain or loss from exchanges of like-kind personal property, but eligible taxpayers may elect the treatment that applied under prior federal law for Iowa purposes. For tax years beginning on or after January 1, 2020, Iowa fully conforms to the federal treatment for these exchanges, and no special election is available. This rule governs exchanges of like-kind personal property completed after December 31, 2017, but before tax periods beginning on or after January 1, 2020. This rule does not apply to exchanges completed during any tax year beginning on or after January 1, 2020.

**53.27(2) *Qualification.*** Section 1031 of the Internal Revenue Code in effect on December 21, 2017, and any applicable federal regulations govern whether transactions involving the disposition and acquisition of personal property qualify for Iowa corporate income tax purposes as a like-kind exchange of personal property subject to the deferral of gain or loss and also govern the date and tax period during which an exchange is considered completed. The treatment of such transactions as a like-kind exchange for Iowa corporate income tax purposes is either mandatory or permissive depending on the date the like-kind exchange is completed.

*a. Like-kind exchanges completed after December 31, 2017, but before tax periods beginning on or after January 1, 2019.* Transactions involving the disposition and acquisition of personal property that qualify under this subrule as a like-kind exchange completed after December 31, 2017, but before tax periods beginning on or after January 1, 2019, are required to be treated as a like-kind exchange for Iowa corporate income tax purposes.

*b. Like-kind exchanges completed during tax periods beginning on or after January 1, 2019, but before January 1, 2020.* For tax periods beginning on or after January 1, 2019, Iowa is conformed to the federal repeal of deferral of gain or loss from exchanges of like-kind personal property, so the federal and Iowa treatment of such transactions under Section 1031 of the Internal Revenue Code will generally be the same. However, transactions involving the disposition and acquisition of personal property that qualify under this subrule as a like-kind exchange completed during tax periods beginning on or after January 1, 2019, but before January 1, 2020, may at the election of the taxpayer be treated as a like-kind exchange for Iowa corporate income tax purposes. The election is made by completing the necessary

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

worksheets and forms and making the required adjustments on the Iowa return as described in subrule 53.27(3). No special attachment or statement is required. The election only applies to the transactions involved in the like-kind exchange, and the taxpayer may elect or not elect to treat other qualifying transactions as a like-kind exchange for Iowa purposes.

**53.27(3) Calculation and Iowa adjustments.** A taxpayer required to or electing to treat qualifying transactions as a like-kind exchange for Iowa tax purposes must make certain Iowa calculations and adjustments on forms and worksheets made available on the department's website. The IA 8824 Worksheet described in this subrule need not be included with the Iowa return but must be kept with the taxpayer's records. The taxpayer is responsible for providing documentation at the department's request to substantiate a like-kind exchange under this rule.

*a. Like-kind exchange calculation.* The taxpayer must complete Parts I and II of the IA 8824 Worksheet to compute the Iowa recognized gain, if any, the Iowa deferred gain or loss, and the Iowa basis of the like-kind personal property received in the like-kind exchange.

EXAMPLE 1: X, a corporation engaged in commercial farming and filing on a calendar-year basis, trades a tractor with a fair market value (FMV) of \$25,000 along with \$75,000 in cash to Y for a new tractor with an FMV of \$100,000. For purposes of this example it is assumed that the tractor trade occurs in 2019 and qualifies as a like-kind exchange and that X elects such treatment for Iowa corporate income tax purposes under paragraph 53.27(2) "b." At the time of the trade, the adjusted basis of X's old tractor is \$0 for federal tax purposes and is \$13,680 for Iowa tax purposes. X realizes a gain for Iowa purposes on the exchange of the old tractor in the amount of \$11,320 (\$100,000 FMV of new tractor - \$75,000 cash paid - \$13,680 Iowa adjusted basis of old tractor). Because X did not receive any cash or other property that was not like-kind, or assume any liabilities from Y, the entire amount of X's \$11,320 realized gain qualifies for deferral, so X recognizes \$0 of gain on the exchange for Iowa tax purposes. As a result, X's basis in the new tractor for Iowa tax purposes is \$88,680 (\$13,680 Iowa adjusted basis of old tractor + \$75,000 cash paid by X).

*b. Iowa nonconformity adjustment.*

(1) The taxpayer must complete Part III of the IA 8824 Worksheet to adjust for the difference between any recognized Iowa gain from the exchange as calculated on the IA 8824 Worksheet, Part II, and any gain or loss (including gain or loss recaptured as ordinary income) recognized on the taxpayer's federal return.

EXAMPLE 2: Assume the same facts as given in Example 1. Because the tractor trade occurred in 2019, it will not qualify as a like-kind exchange for federal tax purposes but will instead be treated as two separate transactions: a sale of the old tractor and a purchase of the new tractor. X recognizes a gain for federal tax purposes on the sale of the old tractor in the amount of \$25,000 (\$25,000 sales price of old tractor - \$0 federal adjusted basis of old tractor), the entire amount of which is recaptured as ordinary income because of prior depreciation. X reports the \$25,000 of income on the federal return. X is required to report the same \$25,000 as income on the Iowa return but is also allowed a \$25,000 subtraction on the same Iowa return because X's recognized gain for Iowa tax purposes is \$0 as calculated in Example 1. X's nonconformity adjustment of -\$25,000 must be reported on the Iowa return in the manner prescribed on the IA 8824 Worksheet.

(2) If the total recognized federal gain is reported using the installment sale method under Section 453 of the Internal Revenue Code, the total amount of any Iowa nonconformity adjustment related to that federal gain must be claimed over the same installment period, and the proportion of the total Iowa nonconformity adjustment claimed for each tax year shall equal the same proportion that the federal gain reported for that tax year bears to the total amount of federal gain that will ultimately be reported for all tax years resulting from the disposition of the personal property. The taxpayer must complete an IA 8824 Worksheet for each tax year that an Iowa nonconformity adjustment is claimed.

*c. Cost recovery adjustments.*

(1) The taxpayer must complete the IA 4562A to account for any differences between the federal and Iowa cost recovery deductions related to the like-kind personal property involved in the like-kind exchange, including if the taxpayer's basis in the like-kind personal property received is different for federal and Iowa purposes, or if the taxpayer claimed additional first-year depreciation or a section

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

179 deduction for federal purposes on the like-kind property received in the exchange. See rule 701—53.22(422) for requirements related to the disallowance of additional first-year depreciation for Iowa corporate income tax purposes. See rule 701—53.23(422) for the section 179 limitations imposed under the Iowa corporate income tax.

(2) Treasury Regulation §1.168(i)-6 prescribes rules related to the calculation of depreciation for certain assets involved in a like-kind exchange, but a taxpayer may elect to not have those rules apply pursuant to Treasury Regulation §1.168(i)-6(i). A taxpayer may choose to make a similar election under Treasury Regulation §1.168(i)-6(i) for Iowa tax purposes with regard to a like-kind exchange under this rule if the personal property otherwise would have qualified for such federal election notwithstanding the fact that no like-kind exchange occurred for federal purposes or the fact that no election was actually made for federal tax purposes in accordance with Treasury Regulation §1.168(i)-6(j). The election is made by calculating depreciation for Iowa tax purposes on the personal property involved in the like-kind exchange using the method described in Treasury Regulation §1.168(i)-6(i) on the timely filed Iowa return, including extensions, for the same tax year that the like-kind exchange was completed. No special attachment or statement is required.

EXAMPLE 3: Assume the same facts as given in Examples 1 and 2. X elects additional first-year depreciation on the new tractor and claims a depreciation deduction on the federal return of \$100,000 (100 percent of X's federal basis). X is required to add back the total amount of the federal depreciation on the Iowa return because Iowa does not allow additional first-year depreciation. But X is permitted deductions for regular depreciation on the new tractor with an Iowa basis of \$88,680 (\$13,680 carryover basis from old tractor + \$75,000 excess basis from cash paid) under Section 168 of the Internal Revenue Code, without regard to bonus depreciation under Section 168(k). See rule 701—53.22(422) for more information on the disallowance of additional first-year depreciation.

EXAMPLE 4: Assume the same facts as given in Examples 1 and 2. X elects to expense the entire cost of the new tractor under Section 179 of the Internal Revenue Code and claims a deduction on the federal return of \$100,000. X is also required to claim the section 179 deduction on the new tractor for Iowa tax purposes pursuant to subrule 53.23(2). However, the amount that represents the carryover basis from the old tractor (\$13,680) is not eligible for the deduction under Section 179(d)(3) of the Internal Revenue Code, so the cost of the new tractor that is eligible for the section 179 deduction for Iowa purposes is only \$75,000 (excess basis from cash paid). This is the amount of section 179 deduction that X must claim on the Iowa return, subject to the applicable Iowa dollar limitation and reduction limitations in rule 701—53.23(422). Because X is the taxpayer who placed the new tractor in service, X is permitted deductions for regular depreciation on the carryover basis in the new tractor (\$13,680) under Section 168 of the Internal Revenue Code, without regard to bonus depreciation under Section 168(k).

This rule is intended to implement 2019 Iowa Acts, chapter 152 [House File 779], section 11.

ITEM 3. Adopt the following new rule 701—59.10(422):

**701—59.10(422) Like-kind exchanges of personal property completed after December 31, 2017, but before tax periods beginning on or after January 1, 2020.**

**59.10(1) In general.** Public Law 115-97, Section 13303, repealed the deferral of gain or loss from exchanges of like-kind personal property for federal purposes under Section 1031 of the Internal Revenue Code. This federal repeal applies to exchanges completed after December 31, 2017, unless the taxpayer began the exchange by transferring personal property or receiving replacement personal property on or before that date. Iowa did not conform to this federal repeal for Iowa franchise tax purposes for tax periods beginning before January 1, 2019. For tax years beginning on or after January 1, 2019, but before January 1, 2020, Iowa generally conforms to the federal treatment of gain or loss from exchanges of like-kind personal property, but eligible taxpayers may elect the treatment that applied under prior federal law for Iowa purposes. For tax years beginning on or after January 1, 2020, Iowa fully conforms to the federal treatment for these exchanges, and no special election is available. This rule governs exchanges of like-kind personal property completed after December 31, 2017, but before tax periods beginning on or after January 1, 2020. This rule does not apply to exchanges completed during any tax year beginning on or after January 1, 2020.

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

**59.10(2) Qualification.** Section 1031 of the Internal Revenue Code in effect on December 21, 2017, and any applicable federal regulations govern whether transactions involving the disposition and acquisition of personal property qualify for Iowa franchise tax purposes as a like-kind exchange of personal property subject to the deferral of gain or loss and also govern the date and tax period during which an exchange is considered completed. The treatment of such transactions as a like-kind exchange for Iowa franchise tax purposes is either mandatory or permissive depending on the date the like-kind exchange is completed.

*a. Like-kind exchanges completed after December 31, 2017, but before tax periods beginning on or after January 1, 2019.* Transactions involving the disposition and acquisition of personal property that qualify under this subrule as a like-kind exchange completed after December 31, 2017, but before tax periods beginning on or after January 1, 2019, are required to be treated as a like-kind exchange for Iowa franchise tax purposes.

*b. Like-kind exchanges completed during tax periods beginning on or after January 1, 2019, but before January 1, 2020.* For tax periods beginning on or after January 1, 2019, Iowa is conformed to the federal repeal of deferral of gain or loss from exchanges of like-kind personal property, so the federal and Iowa treatment of such transactions under Section 1031 of the Internal Revenue Code will generally be the same. However, transactions involving the disposition and acquisition of personal property that qualify under this subrule as a like-kind exchange completed during tax periods beginning on or after January 1, 2019, but before January 1, 2020, may at the election of the taxpayer be treated as a like-kind exchange for Iowa franchise tax purposes. The election is made by completing the necessary worksheets and forms and making the required adjustments on the Iowa return as described in subrule 59.10(3). No special attachment or statement is required. The election only applies to the transactions involved in the like-kind exchange, and the taxpayer may elect or not elect to treat other qualifying transactions as a like-kind exchange for Iowa purposes.

**59.10(3) Calculation and Iowa adjustments.** A taxpayer required to or electing to treat qualifying transactions as a like-kind exchange for Iowa tax purposes must make certain Iowa calculations and adjustments on forms and worksheets made available on the department's website. The IA 8824 Worksheet described in this subrule need not be included with the Iowa return but must be kept with the taxpayer's records. The taxpayer is responsible for providing documentation at the department's request to substantiate a like-kind exchange under this rule.

*a. Like-kind exchange calculation.* The taxpayer must complete Parts I and II of the IA 8824 Worksheet to compute the Iowa recognized gain, if any, the Iowa deferred gain or loss, and the Iowa basis of the like-kind personal property received in the like-kind exchange.

EXAMPLE 1: X, a financial institution filing on a calendar-year basis, trades a computer system with a fair market value (FMV) of \$25,000 along with \$75,000 in cash to Y for a new computer system with an FMV of \$100,000. For purposes of this example it is assumed that the computer system trade occurs in 2019 and qualifies as a like-kind exchange and that X elects such treatment under paragraph 59.10(2) "b." At the time of the trade, the adjusted basis of X's old computer system is \$0 for federal tax purposes and is \$13,680 for Iowa tax purposes. X realizes a gain for Iowa purposes on the exchange of the old computer system in the amount of \$11,320 (\$100,000 FMV of new computer system - \$75,000 cash paid - \$13,680 Iowa adjusted basis of old computer system). Because X did not receive any cash or other property that was not like-kind, or assume any liabilities from Y, the entire amount of X's \$11,320 realized gain qualifies for deferral, so X recognizes \$0 of gain on the exchange for Iowa tax purposes. As a result, X's basis in the new computer system for Iowa tax purposes is \$88,680 (\$13,680 Iowa adjusted basis of old computer system + \$75,000 cash paid by X).

*b. Iowa nonconformity adjustment.*

(1) The taxpayer must complete Part III of the IA 8824 Worksheet to adjust for the difference between any recognized Iowa gain from the exchange as calculated on the IA 8824 Worksheet, Part II, and any gain or loss (including gain or loss recaptured as ordinary income) recognized on the taxpayer's federal return.

EXAMPLE 2: Assume the same facts as given in Example 1. Because the computer trade occurred in 2019, it will not qualify as a like-kind exchange for federal tax purposes but will instead be treated as

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

two separate transactions: a sale of the old computer system and a purchase of the new computer system. X recognizes a gain for federal tax purposes on the sale of the old computer system in the amount of \$25,000 (\$25,000 sales price of old computer system - \$0 federal adjusted basis of old computer system), the entire amount of which is recaptured as ordinary income because of prior depreciation. X reports the \$25,000 of income on the federal return. X is required to report the same \$25,000 as income on the Iowa return but is also allowed a \$25,000 subtraction on the same Iowa return because X's recognized gain for Iowa tax purposes is \$0 as calculated in Example 1. X's nonconformity adjustment of -\$25,000 must be reported on the Iowa return in the manner prescribed on the IA 8824 Worksheet.

(2) If the total recognized federal gain is reported using the installment sale method under Section 453 of the Internal Revenue Code, the total amount of any Iowa nonconformity adjustment related to that federal gain must be claimed over the same installment period, and the proportion of the total Iowa nonconformity adjustment claimed for each tax year shall equal the same proportion that the federal gain reported for that tax year bears to the total amount of federal gain that will ultimately be reported for all tax years resulting from the disposition of the personal property. The taxpayer must complete an IA 8824 Worksheet for each tax year that an Iowa nonconformity adjustment is claimed.

*c. Cost recovery adjustments.*

(1) The taxpayer must complete the IA 4562A to account for any differences between the federal and Iowa cost recovery deductions related to the like-kind personal property involved in the like-kind exchange, including if the taxpayer's basis in the like-kind personal property received is different for federal and Iowa purposes, or if the taxpayer claimed additional first-year depreciation or a section 179 deduction for federal purposes on the like-kind property received in the exchange. See rule 701—59.23(422) for requirements related to the disallowance of additional first-year depreciation for Iowa franchise tax purposes. See rule 701—59.24(422) for the section 179 limitations imposed under the Iowa franchise tax.

(2) Treasury Regulation §1.168(i)-6 prescribes rules related to the calculation of depreciation for certain assets involved in a like-kind exchange, but a taxpayer may elect to not have those rules apply pursuant to Treasury Regulation §1.168(i)-6(i). A taxpayer may choose to make a similar election under Treasury Regulation §1.168(i)-6(i) for Iowa tax purposes with regard to a like-kind exchange under this rule if the personal property otherwise would have qualified for such federal election notwithstanding the fact that no like-kind exchange occurred for federal purposes or the fact that no election was actually made for federal tax purposes in accordance with Treasury Regulation §1.168(i)-6(j). The election is made by calculating depreciation for Iowa tax purposes on the personal property involved in the like-kind exchange using the method described in Treasury Regulation §1.168(i)-6(i) on the timely filed Iowa return, including extensions, for the same tax year that the like-kind exchange was completed. No special attachment or statement is required.

EXAMPLE 3: Assume the same facts as given in Examples 1 and 2. X elects additional first-year depreciation on the new computer system and claims a depreciation deduction on the federal return of \$100,000 (100 percent of X's federal basis). X is required to add back the total amount of the federal depreciation on the Iowa return because Iowa does not allow additional first-year depreciation. But X is permitted deductions for regular depreciation on the new computer system with an Iowa basis of \$88,680 (\$13,680 carryover basis from old computer system + \$75,000 excess basis from cash paid) under Section 168 of the Internal Revenue Code, without regard to bonus depreciation under Section 168(k). See rule 701—59.23(422) for more information on the disallowance of additional first-year depreciation.

EXAMPLE 4: Assume the same facts as given in Examples 1 and 2. X elects to expense the entire cost of the new computer system under Section 179 of the Internal Revenue Code and claims a deduction on the federal return of \$100,000. X is also required to claim the section 179 deduction on the new computer system for Iowa tax purposes pursuant to subrule 59.24(2). However, the amount that represents the carryover basis from the old computer system (\$13,680) is not eligible for the deduction under Section 179(d)(3) of the Internal Revenue Code, so the cost of the new computer system that is eligible for the section 179 deduction for Iowa purposes is only \$75,000 (excess basis from cash paid). This is the amount of section 179 deduction that X must claim on the Iowa return, subject to the applicable Iowa dollar limitation and reduction limitations in rule 701—59.24(422). Because X is the taxpayer who

REVENUE DEPARTMENT[701](cont'd)

placed the new computer system in service, X is permitted deductions for regular depreciation on the carryover basis in the new computer system (\$13,680) under Section 168 of the Internal Revenue Code, without regard to bonus depreciation under Section 168(k).

This rule is intended to implement 2019 Iowa Acts, chapter 152 [House File 779], section 11.

[Filed 7/25/19, effective 9/18/19]

[Published 8/14/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/14/19.

**ARC 4615C**

## **UTILITIES DIVISION[199]**

### **Adopted and Filed**

#### **Rule making related to assessments**

The Utilities Board hereby amends Chapter 17, "Assessments," Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 476.2.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapter 477C and sections 476.10, 476.10A and 476.95B.

#### *Purpose and Summary*

The Utilities Board is conducting a comprehensive review of its administrative rules in accordance with Iowa Code section 17A.7(2). The purpose of this review is to identify and update or eliminate rules that are outdated or inconsistent with statutes and other administrative rules.

On July 19, 2019, the Board issued an order adopting amendments. The order is available on the Board's electronic filing system, [efs.iowa.gov](https://efs.iowa.gov), under Docket No. RMU-2016-0025.

#### *Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on May 8, 2019, as **ARC 4416C**. An oral presentation was held on June 13, 2019, at 9 a.m. in the Board Hearing Room, 1375 East Court Avenue, Des Moines, Iowa. The Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice; the Iowa Communications Alliance (ICA); MidAmerican Energy Company; Interstate Power and Light Company (IPL); and Windstream attended the oral presentation. No party objected to the rule making or requested changes. Written comments were received from the OCA, IPL, and the ICA, and each expressed support for the proposed amendments. No changes from the Notice have been made.

#### *Adoption of Rule Making*

This rule making was adopted by the Board on July 17, 2019.

#### *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.

## UTILITIES DIVISION[199](cont'd)

*Waivers*

No waiver provision is included in the amendments because the Board has a general waiver provisions in rule 199—1.3(17A,474,476) that provides procedures for requesting a waiver of the rules in this chapter.

*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 18, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend rule 199—17.1(475A,476,546) as follows:

**199—17.1(475A,476,546) Purpose.** The purpose of this chapter is to describe ~~and implement~~ the method the board uses to assess expenses incurred by the board ~~and the consumer advocate~~ on utilities and other parties pursuant to Iowa Code ~~Supplement section 476.10 and Iowa Code section 476.101(10)~~ sections 476.10, 476.10A, and 476.95B and chapter 477C. ~~Rules in this chapter refer to the Iowa Code sections and rules that govern assessments under Iowa Code chapters 478, 479, 479A, and 479B. As used in this chapter, a reference to expenses of the board includes expenses of the entire utilities division.~~ The consumer advocate shall determine and certify the consumer advocate's direct and remainder assessments to the board pursuant to Iowa Code section 475A.6. In determining whether to directly assess a person, the consumer advocate may consider the factors under rule 199—17.4(476).

ITEM 2. Amend rule 199—17.2(475A,476) as follows:

**199—17.2(475A,476) Definitions.** The following definitions apply to the rules in this chapter.

**17.2(1)** A “direct assessment” is the charge to a person bringing a proceeding or matter before the board or to persons participating in proceedings or matters before the board:

~~a. For and includes~~ expenses incurred by the board attributable to the board's duties related to such proceeding or matter; ~~and.~~

~~b. For certified expenses incurred and directly chargeable by the consumer advocate in the performance of its duties related to such proceeding or matter.~~

The term “person” includes any legal entity. However, “person” does not include the consumer advocate.

**17.2(2)** An “industry direct assessment” is the charge to the utilities in a specific industry for expenses associated with regulation of that specific industry that are not directly assessed. An industry direct assessment includes a direct assessment in a specific industry for which no person is directly assessed under rule 199—17.4(476). The industries assessed are as follows:

a. Electric utilities are assessed for expenses associated with electric service, including expenses associated with the board's participation in or consideration of regional and federal issues.

b. Natural gas utilities are assessed for expenses associated with natural gas service, including expenses associated with the board's participation in or consideration of regional and federal issues.

c. Water utilities are assessed for expenses associated with water service, including expenses associated with the board's participation in or consideration of regional and federal issues.

d. Sanitary sewer utilities are assessed for expenses associated with sanitary sewer services.

## UTILITIES DIVISION[199](cont'd)

e. Storm water drainage utilities are assessed for expenses associated with storm water drainage services.

f. Telecommunications companies, including all companies providing local exchange service and interexchange service in Iowa whether by landline or voice over Internet protocol, are assessed for expenses associated with telecommunications service, including expenses associated with the board's participation in or consideration of regional and federal issues.

~~17.2(2)~~ **17.2(3)** A "remainder assessment" is the charge to all persons providing service over which the board has jurisdiction for the total expenses incurred during each fiscal year in the performance of the board's duties under law ~~and the certified expenses of the consumer advocate~~ after deducting the direct assessments, industry direct assessments, and other revenues. ~~The remainder assessment may consist of two parts: expenses that can be identified with a specific type of utility service, and expenses that cannot be so identified.~~

~~17.2(3)~~ **17.2(4)** "Overhead expenses" are all operating costs of the board ~~and the consumer advocate excluding salaries and related benefit costs borne by the state~~ not directly attributable to a proceeding or matter, or a specific industry, which are included in direct and industry direct assessments.

~~17.2(4)~~ **17.2(5)** "Gross operating revenues from intrastate operations" include all revenues from Iowa intrastate utility operations during the last calendar year, except ~~uncollectible~~:

- a. Uncollectible revenues, amounts
- b. Amounts included in the accounts for interdepartmental sales and rents, and gross
- c. Gross receipts received by a cooperative corporation or association for wholesale transactions with members of the cooperative corporation or association, provided that the members are subject to assessment by the board based upon the members' gross operating revenues, or provided that such member is an association whose members are subject to assessment by the board based upon the members' gross operating revenues.

**17.2(6)** As used in this chapter, a reference to expenses of the board includes expenses of the entire utilities division.

**17.2(7)** A "person" includes individuals and legal entities as defined in Iowa Code section 4.1(20), except the definition does not include the consumer advocate.

**17.2(8)** An "individual" is a human being as distinguished from legal entities.

**17.2(9)** Industry direct assessments and remainder assessments for gas and electric utilities exempted from rate regulation by the board shall be computed at one-half of the rate used in computing industry direct assessments and remainder assessments for other persons.

ITEM 3. Amend rule 199—17.3(476) as follows:

**199—17.3(476) Expenses to be included in direct assessments.** ~~In its direct assessments, the board does not bill more than costs assigned to a docket. Direct assessments include the following expenses:~~

**17.3(1)** ~~Salaries of board and consumer advocate employees are computed at an expertise level on an hourly rate obtained by dividing the individual's merit class average annual salary and related benefit and related costs borne by the state by the appropriate number of standard working hours for the year.~~

~~The time of all board and consumer advocate employees engaged on the matter for which a direct assessment is to be made, whether on the property of a public utility, in the offices of the board, or elsewhere, including travel time, is included.~~

**17.3(2)** ~~Travel expenses incurred in an investigation or in rendering services by the board and the consumer advocate personnel or by others employed by the board or consumer advocate are included. Travel expenses include costs of transportation, lodging, meals and other normal expenses attributable to traveling.~~

**17.3(3)** ~~Costs of necessary consultants, contractors, facilities, or and equipment are included if directly related to a proceeding or matter.~~

**17.3(4)** ~~Overhead expenses of the board and the consumer advocate reasonably attributable to activities of the board and consumer advocate that can be directly assessed under Iowa Code Supplement section 476.10 or Iowa Code section 476.101(10) are included. The following method is used to~~



## UTILITIES DIVISION[199](cont'd)

~~calculate the overhead expense factor used to calculate the overhead expenses reasonably attributable to activities of the board and consumer advocate.~~

~~a. The overhead expense factor used in direct billing overhead expenses is recalculated and implemented with the July billing each year. The overhead expense factor is determined using the following formula:~~

$$\begin{array}{ccc} \text{20XX Fiscal Year} & & \text{20XX Approved Budget} \\ \text{Overhead Expense} & = & \text{Fiscal Year Expenditures} \\ \text{Factor} & & \text{20XX Approved Budget} \\ & & \text{Fiscal Year Salaries} \end{array}$$

~~b. The “Approved Budget Fiscal Year Expenditures” and “Approved Budget Fiscal Year Salaries” are for those of the board and the consumer advocate added together.~~

~~c. For each merit class salary, the overhead expense factor is multiplied by the salary computed pursuant to subrule 17.3(1) to produce the hourly rate to be charged in the direct assessment.~~

ITEM 4. Amend rule 199—17.4(476) as follows:

**199—17.4(476) Direct assessments under Iowa Code Supplement section 476.10.**

**17.4(1) Applicability.** ~~This rule applies only to direct assessments under Iowa Code Supplement section 476.10. The following persons shall not be directly assessed for participating in a board proceeding or matter unless the board issues an order finding that the person may be directly assessed for that participation:~~

~~**17.4(2) a.** The board will not directly assess an An individual who files a complaint against a public utility, so long as the individual’s participation in the proceeding is in good faith.~~

~~**b.** The board will not directly assess an An individual who files a protest or inquiry or intervenes in a proceeding involving a rate change by a public utility, so long as the individual’s participation in the proceeding is in good faith.~~

~~**c.** The board will not directly assess any Any person for filing written or oral comments in a rule-making proceeding.~~

~~**17.4(3) d.** Ordinarily, the board will not directly assess a person who intervenes An intervenor in a board proceeding. However, the board may decide to directly assess a person who intervenes if the board determines that the person’s intervention or participation is not in good faith, the board determines the intervention significantly expands the scope of the proceeding without contribution to the public interest, or the board determines there are unusual circumstances warranting assessment. If the board determines there are unusual circumstances warranting assessment, it will issue an order at the earliest reasonable opportunity.~~

~~**17.4(4) 17.4(2)** The board considers the following factors in deciding whether to directly assess a person as defined in subrule 17.2(7), and the amount to be directly assessed, pursuant to Iowa Code Supplement section 476.10.~~

~~**a.** Whether the person’s intervention and participation in a board proceeding expanded the scope of the proceeding without contributing to the public interest.~~

~~**b.** Whether the person’s intervention and participating participation in a board proceeding was in good faith.~~

~~**c.** The financial resources of the person.~~

~~**d.** The impact of assessment on participation by intervenors.~~

~~**e.** The nature of the proceeding or matter.~~

~~**f.** The contribution of the person’s participation to the public interest.~~

~~**g.** Whether directly assessing costs would be fair and in the public interest.~~

~~**h.** Other factors deemed appropriate by the board in a particular case.~~

~~**17.4(5)** The board may decide not to directly assess a person after considering the factors in subrule 17.4(4).~~

## UTILITIES DIVISION[199](cont'd)

~~17.4(6)~~ In determining the financial resources of the person in 17.4(4) “c” above, the board may use revenue information previously submitted by the person to the board. If the person has not previously provided revenue information to the board, or has submitted incomplete information, the board may request that the person submit revenue information and, if the person does not do so, may make assumptions regarding the person’s financial resources for purposes of the direct assessment.

~~17.4(7)~~ Most Iowa Code section 476.97 proceedings are considered for direct assessment under Iowa Code Supplement section 476.10 and this rule. The only exception is a section 476.97 complaint brought under section 476.101(8), which is assessed under section 476.101(10).

ITEM 5. Amend rule 199—17.5(476) as follows:

**199—17.5(476) Reporting of operating revenues.** Each year, the board sends an annual report form to every public utility. On or before April 1 of each year, every public utility shall file with the board its annual a report that includes a verified report, on forms prescribed by the board, showing its the utility’s gross operating revenues from Iowa intrastate operations during the preceding calendar year. Such revenues are to be reported on the accrual basis or the cash basis consistent with the annual report filed with the board.

ITEM 6. Amend rule 199—17.6(475A,476) as follows:

**199—17.6(475A,476) Compilation and billing of assessment.**

~~17.6(1) Direct assessments.~~ The board shall ascertain, and add to the direct assessment, determine its own expenses to be billed and shall add the certified expenses incurred by the consumer advocate directly chargeable to the person. The board does not review the expenses certified to it by the consumer advocate. The board may present a bill for the direct assessment to any person either at the conclusion of the proceeding or matter, or from time to time during its progress.

~~17.6(2) Remainder assessments.~~

~~a.~~ The revenues for the remainder assessment shall be compiled by the board based on the report provided pursuant to rule 17.5(476).

~~b.~~ The board shall ascertain the total of the division’s expenses incurred during each fiscal year and add to it the certified expenses of the consumer advocate. Next, the board shall add together all amounts directly assessed, pipeline assessments, electric transmission line assessments, federal reimbursements, and miscellaneous reimbursements. This total shall be deducted from the total of the division’s and consumer advocate’s expenses. The remaining amount is the amount to be recovered through the remainder assessment. Subject to paragraphs 17.6(2) “c” and “d,” the board may assess the remaining amount to all persons providing service over which the board has jurisdiction in proportion to the respective gross operating revenues of such persons from Iowa intrastate operations over which the board has jurisdiction during the last calendar year.

~~c.~~ If any portion of the remainder can be identified with a specific type of utility service, the board shall assess those expenses only to the entities providing that type of service over which the board has jurisdiction.

~~d.~~ The remainder assessments for gas and electric public utilities exempted from rate regulation pursuant to Iowa Code chapter 476 will be computed at one-half the rate used to compute the assessment for other persons.

~~e.~~ The board may make the remainder assessments on a quarterly basis, based upon estimates of the expenditures for the fiscal year for the division and the consumer advocate. The board shall conform the amount of the estimated prior fiscal year’s assessments to the actual fiscal year expenditures not more than 90 days following the close of the fiscal year.

~~f.~~ If a utility has gross operating revenue of \$50,000 or less for the prior calendar year, the board may decide not to bill the utility for its share of the remainder assessment.

~~17.6(3)~~ 17.6(2) The bill or accompanying letter of transmittal to each utility shall indicate the assessable revenue for the utility, the rate at which the assessment was computed, and the assessment amount. Bills Unless otherwise ordered by the board, bills must be paid within 30 days of receipt unless

## UTILITIES DIVISION[199](cont'd)

an objection is filed in writing pursuant to Iowa Code Supplement section 476.10. In the event an objection is filed under rule 199—17.10(475A,476), the portion of the bill not contested must be paid within 30 days of receipt. The board shall develop procedures for the collection of unpaid bills.

**17.6(3)** A person participating in a board proceeding or matter may file a request in that proceeding or matter for the board to determine how the expenses of that proceeding or matter will be assessed.

ITEM 7. Amend rule 199—17.7(476) as follows:

**199—17.7(476) Funding of Iowa energy center and center for global warming-center and regional environmental research.** The board will send a bill to each gas and electric utility for funding the Iowa energy center and center for global warming-center and regional environmental research. Within 30 days of receipt of the bill, each gas and electric utility shall remit to the utilities division of the department of commerce a check made payable to the treasurer of state for one-tenth of one percent of the total gross operating revenue during the last calendar year derived from its intrastate public utility operations for the funding of the Iowa energy center and center for global warming-center and regional environmental research. This remittance shall not be represented on customers' bills as a separate item.

ITEM 8. Amend rule 199—17.8(476) as follows:

**199—17.8(476) Assessments under Iowa Code section 476.101(10) 476.95B.**

**17.8(1) Applicability.** This rule applies to assessments under Iowa Code section 476.101(10) 476.95B.

**17.8(2)** In making assessments under Iowa Code section 476.101(10) 476.95B, the board will allocate costs and expenses to all parties and participants. The allocation will not necessarily be an equal allocation.

**17.8(3)** The specific method of allocation will be made on a case-by-case basis, and ordinarily will be included in the final order in the docket, unless otherwise ordered by the board.

**17.8(4)** The factors the board will consider may include, but are not limited to, Iowa revenues, grouping of parties and participants on the basis of position on the issues, and the factors under rule 199—17.4(476). Joint participation by similarly oriented parties and participants parties with similar positions on the issue will be encouraged by favorable allocations.

**17.8(5)** The most recent revenue reports filed pursuant to rule 17.5(476) will be used to determine assessments, if available. If the participant has not previously provided revenue information to the board, or has provided incomplete revenue information, the board may request that the participant submit revenue information. If the participant does not do so, the board may make assumptions regarding the participant's revenue for purposes of the assessment. The board may make adjustments to the revenue figures as appropriate for the particular type of case.

ITEM 9. Rescind rule 199—17.9(478,479,479A,479B) and adopt the following new rule in lieu thereof:

**199—17.9(477C) Assessments of expenses for dual party relay service program and equipment distribution program.**

**17.9(1)** Wireless carriers and wireline local exchange carriers providing telecommunications services in Iowa shall comply with Iowa Code section 477C.7 for payment of assessments to fund the dual party relay service program and equipment distribution program. Those carriers shall pay assessments in the amount of three cents per month for each telecommunications service phone number. "Telecommunications service phone number" means a revenue-producing telephone number.

**17.9(2)** Wireless carriers and wireline local exchange carriers shall file the number of telecommunications service phone numbers with the payment required by Iowa Code section 477C.7. The number of telecommunications service phone numbers may be filed as confidential and may be withheld from public inspection pursuant to the procedures in 199—subrule 1.9(8).

**17.9(3)** The board shall periodically audit the payment of Iowa Code section 477C.7 assessments for any purpose the board deems necessary, including, but not limited to, examining whether wireless

## UTILITIES DIVISION[199](cont'd)

carriers and wireline local exchange carriers providing telecommunications services in Iowa are paying assessments in appropriate amounts.

ITEM 10. Adopt the following new rule 199—17.10(475A,476):

**199—17.10(475A,476) Objection procedures.**

**17.10(1)** A person subject to an assessment shall either pay the amount assessed or file an objection to the assessment as set forth in this rule within 30 days of the date the board provides notice of the amount due to the person.

**17.10(2)** An objection must be in writing and must set forth the specific grounds upon which the person claims the assessment is excessive, unreasonable, erroneous, unlawful, or invalid. The objection shall identify whether the person objects to the assessment of expenses certified by the board, to the assessment of expenses certified by the consumer advocate, or both. If the person wishes to orally present argument to the board, the request for oral argument must be included in the objection. Absent a request for oral argument, the board will consider the objection based solely on the submission of written evidence and argument. The person may include with the objection such evidence or information the person believes relevant to support the person's claim.

**17.10(3)** Upon receipt of an objection as described in subrule 17.10(2), the objection will be assigned a docket number in the board's electronic filing system, which shall include all filings pertaining to the objection. The consumer advocate shall receive notice of the objection through the board's electronic filing system.

**17.10(4)** This rule does not preclude the consumer advocate or board staff from directly resolving an objection concerning the assessment of expenses certified by the consumer advocate with the person raising the objection. In the event an objection is informally resolved, the fact that a resolution has occurred shall be filed in the docket.

**17.10(5)** If the objection concerns the assessment of expenses certified by the consumer advocate, within 30 days from the date of the objection, the consumer advocate may file responsive argument, evidence, and other information with the board. In the event the person filing an objection has not requested oral argument, the consumer advocate may request oral argument.

**17.10(6)** If oral argument is requested or if the objecting person or the consumer advocate requests additional opportunity to submit written argument and evidence, the board will issue a scheduling order. At the time and place for oral argument, the objecting person and the consumer advocate, if applicable, will be afforded the opportunity to present argument to the board.

**17.10(7)** Following the final submission of written material or oral argument, the board shall issue an order in accordance with its findings. In the event the board affirms the assessment, in whole or in part, the person shall pay the amount identified in the board's order within 30 days from the date of the order.

**17.10(8)** The objection procedures set forth in this rule may not be used by a person to challenge or revisit a direct assessment determination made in a final board order, including those issued under subrule 17.6(3). An objection to a direct assessment determination made in a final board order must be brought pursuant to Iowa Code section 476.12 or the judicial review procedures in Iowa Code chapter 17A.

**17.10(9)** Board expenses incurred in an objection proceeding shall be included in industry direct assessments.

ITEM 11. Adopt the following new rule 199—17.11(476,477C):

**199—17.11(476,477C) Refunds.** If a person makes a payment in excess of the assessed amount, the board may issue a refund to the person for the excess amount or credit the excess amount toward the person's next assessment. For overpayments of less than \$50, absent exigent circumstances, the board will not issue a refund and will hold the excess amount as a credit toward the person's next assessment

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through the fiscal year in which the overpayment occurred. If a credit remains at the end of the fiscal year in which the overpayment occurred, the board will issue a refund for any excess amount remaining.

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**ARC 4616C**

## **UTILITIES DIVISION[199]**

### **Adopted and Filed**

#### **Rule making related to annual reports**

The Utilities Board hereby amends Chapter 23, "Annual Report," Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 474.5 and 476.2.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 476.2, 476.9 and 476.10.

#### *Purpose and Summary*

The Utilities Board (Board) is conducting a comprehensive review of its administrative rules in accordance with Iowa Code section 17A.7(2). The purpose of this review is to identify and update or eliminate rules that are outdated or inconsistent with statutes and other administrative rules.

On July 19, 2019, the Board issued an order adopting amendments. The order is available on the Board's electronic filing system, [efs.iowa.gov](https://efs.iowa.gov), under Docket No. RMU-2016-0036.

#### *Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on May 8, 2019, as **ARC 4420C**. Following publication of the Notice, the Board received written comments in support of the amendments from Black Hills Energy Company, Iowa-American Water Company (Iowa-American), Interstate Power and Light Company (IPL), and the Iowa Communications Alliance (ICA). The Board also received a written comment from the Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice, requesting two minor changes. Specifically, the OCA requested that subrule 23.1(2) be amended to add a reference to the Board's authority under Iowa Code section 476.32 and that subrule 23.1(3) be amended to provide that the annual reports will be publicly accessible.

On June 5, 2019, the Board conducted a technical conference attended by stakeholders to discuss the amendments. An oral presentation was held on June 12, 2019, at 1 p.m. in the Board Hearing Room, 1375 East Court Avenue, Des Moines, Iowa. The oral presentation was attended by the OCA; Iowa-American; IPL; the ICA; MidAmerican Energy Company; BKD, LLP; and Windstream. The OCA reasserted the requested changes contained in its written comment. No other party requested changes to the amendments published under Notice.

The Board made two changes from the Notice per the OCA's written and oral comments. First, in subrule 23.1(2), language was added to reference Board use of an annual report under Iowa Code section 476.32. Second, a minor change was made in subrule 23.1(3) to specify that the annual reports will be publicly accessible.

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*Adoption of Rule Making*

This rule making was adopted by the Board on July 17, 2019.

*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*

No waiver provision is included in the amendments because the Board has a general waiver provision in rule 199—1.3(17A,474,476) that provides procedures for requesting a waiver of the rules in Chapter 23.

*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 18, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 23.1(2) as follows:

**23.1(2)** Each public utility subject to Iowa Code chapter 476 shall file an annual report with this board, on or before April 1 of each year, ~~an annual report as described in this chapter and~~ covering operations during the immediately preceding calendar year. ~~Pursuant to Iowa Code chapter 476, this~~ This information will be used for a number of purposes, including to apportion the costs of the utilities division pursuant to Iowa Code section 476.10 and to determine whether rate-regulated utilities' earnings are excessive pursuant to Iowa Code section 476.32. If a utility ceases operations through merger or sale of its plant during the calendar year, each utility involved in the transaction shall separately file, within 90 days after the merger or sale, an annual report covering the portion of the calendar year operations to the date of sale or merger.

ITEM 2. Amend subrule 23.1(3) as follows:

**23.1(3)** ~~All pages of the report must be completed and submitted to the board. The words "none" or "not applicable" may be used to complete a schedule when they accurately and fully state the facts. The board shall be notified of the nature, amount, and purpose of any accounts used in addition to those prescribed in utilities division 199—Chapter 16. A copy shall be retained in the respondent's file. All reports are to be prepared for and certified to the Iowa utilities board. The forms that are to be completed by each utility shall be made publicly available on the board's website or by other means readily accessible. The board may require the completed forms to be filed electronically through either a portal on the board's website or the board's electronic filing system.~~

ITEM 3. Rescind subrule **23.1(4)**.

ITEM 4. Rescind rule 199—23.2(476) and adopt the following new rule in lieu thereof:

**199—23.2(476) Annual report requirements.** Annual report forms shall be provided by the board for the following utilities.

## UTILITIES DIVISION[199](cont'd)

**23.2(1)** Investor-owned electric utilities.

*a.* Investor-owned, rate-regulated electric utilities shall file Form IE-1. Such utilities shall also include a copy of FERC Annual Report Form No. 1 or 1A as applicable.

*b.* Investor-owned, non-rate-regulated electric utilities shall file Form EC-1.

**23.2(2)** Investor-owned gas utilities. Investor-owned gas utilities shall file Form IG-1. Such utilities shall also include a copy of FERC Annual Report Form No. 2 or 2A as applicable.

**23.2(3)** Water utilities. Regulated water utilities shall file Form WA-1.

**23.2(4)** Cooperative electric utilities corporations or associations. Cooperative electric utilities shall file Form EC-1.

**23.2(5)** Municipal utilities.

*a.* Municipally owned electric utilities shall file Form ME-1.

*b.* Municipally owned gas utilities shall file Form MG-1.

**23.2(6)** Providers of telecommunications service. Providers of telecommunications service shall file Form TC-1.

**23.2(7)** Competitive natural gas providers and aggregators. Competitive natural gas providers and aggregators shall file Form CNGP-1.

**23.2(8)** Generation and transmission cooperatives. Generation and transmission cooperatives shall file Form EC-1N.

**23.2(9)** Additional requirements for rate-regulated utilities. Reports by rate-regulated utilities which have multistate operations shall provide information concerning their Iowa operations as requested on the forms provided by the board. A rate-regulated utility shall file as part of its annual report:

*a.* A list (by title, author, and date) of any financial, statistical, technical or operational reviews or reports that a company may prepare for distribution to stockholders, bondholders, utility organizations or associations or other interested parties; and

*b.* A list (by form number and title) of all financial, statistical, technical and operational review-related documents filed with an agency of the federal government.

**23.2(10)** Storm water drainage and sanitary sewage utilities. Storm water drainage and sanitary sewage utilities shall file Form SW-1.

ITEM 5. Rescind and reserve rule **199—23.3(476)**.

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