



IOWA ADMINISTRATIVE BULLETIN

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PREFACE

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

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

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

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

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CITATION of Administrative Rules

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

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

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

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

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

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

Schedule for Rulemaking 2023

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

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
6	Friday, September 1, 2023	September 20, 2023
7	Friday, September 15, 2023	October 4, 2023
8	Friday, September 29, 2023	October 18, 2023

PLEASE NOTE:

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

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

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

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

The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, September 5, 2023, at 10:30 a.m. in Room 116, State Capitol, Des Moines, Iowa. For more information, contact Jack Ewing at jack.ewing@legis.iowa.gov. The following rules will be reviewed:

CHILD ADVOCACY BOARD[489]

INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella"

Agency realignment, amend chs 1 to 4; rescind ch 5 Notice **ARC 7065C** 8/23/23

ECONOMIC DEVELOPMENT AUTHORITY[261]

Review of rules, rescind chs 4, 27, 32, 34, 35, 37, 40, 41, 46, 70, 78, 79, 164 Filed **ARC 7056C**..... 8/9/23

Butchery innovation and revitalization program, amendments to ch 51 Notice **ARC 7066C**..... 8/23/23

Employer child care tax credit, ch 57 Filed **ARC 7057C** 8/9/23

EDUCATION DEPARTMENT[281]

Students First Act—education savings accounts, ch 20 Filed **ARC 7061C** 8/23/23

ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Underground storage tanks—biofuel compatibility, 135.4 Filed **ARC 7058C**..... 8/23/23

HUMAN RIGHTS DEPARTMENT[421]

Agency realignment, amend ch 1; rescind chs 2 to 7 Notice **ARC 7063C** 8/23/23

HUMAN SERVICES DEPARTMENT[441]

Agency realignment, 1.8, 9.12(1) Notice **ARC 7062C**..... 8/23/23

IOWA FINANCE AUTHORITY[265]

Low-income housing tax credits—qualified allocation plans, 12.1, 12.2 Filed **ARC 7060C** 8/23/23

NATURAL RESOURCE COMMISSION[571]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Deer hunting by residents—general licenses, antlerless-deer-only, 106.1, 106.6(6)

Filed Emergency After Notice **ARC 7053C** 8/9/23

PUBLIC HEALTH DEPARTMENT[641]

Agency realignment, rescind chs 170 to 175; amend ch 176 Notice **ARC 7064C** 8/23/23

REVENUE DEPARTMENT[701]

Setoff of debts owed to public agencies, ch 26 Notice **ARC 7054C** 8/9/23

SECRETARY OF STATE[721]

Five-year review of rules, amendments to chs 1 to 4, 30, 40, 42, 43, 45 Filed **ARC 7059C**..... 8/23/23

ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

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

Senator Mike Klimesh
Vice Chair
Senate District 32

Senator Nate Boulton
Senate District 20

Senator Mike Bousset
Senate District 21

Senator Waylon Brown
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House District 85

Representative Rick Olson
House District 39

Representative Mike Sexton
House District 7

Representative David Young
House District 28

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Governor's Ex Officio Representative
Capitol, Room 18
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EDUCATION DEPARTMENT[281]

Criteria for grants, ch 7 IAB 8/9/23 Regulatory Analysis	State Board Room Grimes State Office Bldg. Des Moines, Iowa	August 29, 2023 9 to 10 a.m.
Pathways for academic career and employment program; gap tuition assistance program, ch 25 IAB 8/23/23 Regulatory Analysis	ICN Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	September 12, 2023 9 to 10 a.m.
Workforce training and economic development funds, ch 27 IAB 8/23/23 Regulatory Analysis	ICN Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	September 12, 2023 9 to 10 a.m.
Educating homeless children and youth, ch 33 IAB 8/9/23 Regulatory Analysis	State Board Room Grimes State Office Bldg. Des Moines, Iowa	August 29, 2023 9 to 10 a.m.
Educational and program standards for children's residential facilities, ch 35 IAB 8/23/23 Regulatory Analysis	ICN Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	September 12, 2023 9 to 10 a.m.
Individual career and academic plan, ch 49 IAB 8/23/23 Regulatory Analysis	ICN Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	September 12, 2023 9 to 10 a.m.
School breakfast and lunch program; nutritional content standards for other foods and beverages, ch 58 IAB 8/9/23 Regulatory Analysis	State Board Room Grimes State Office Bldg. Des Moines, Iowa	August 29, 2023 9 to 10 a.m.
Gifted and talented programs, ch 59 IAB 8/9/23 Regulatory Analysis	State Board Room Grimes State Office Bldg. Des Moines, Iowa	August 29, 2023 9 to 10 a.m.
Programs for students who are English learners, ch 60 IAB 8/9/23 Regulatory Analysis	State Board Room Grimes State Office Bldg. Des Moines, Iowa	August 29, 2023 9 to 10 a.m.
Iowa reading research center, ch 61 IAB 8/23/23 Regulatory Analysis	ICN Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	September 12, 2023 9 to 10 a.m.

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Programs for at-risk early elementary students, ch 65 IAB 8/9/23 Regulatory Analysis	State Board Room Grimes State Office Bldg. Des Moines, Iowa	August 29, 2023 9 to 10 a.m.
Standards for practitioner and administrator preparation programs, rescind ch 77; adopt ch 79 IAB 8/23/23 Regulatory Analysis	ICN Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	September 12, 2023 9 to 10 a.m.
Standards for paraeducator preparation programs, ch 80 IAB 8/23/23 Regulatory Analysis	ICN Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	September 12, 2023 9 to 10 a.m.
Standards for school administration manager programs, ch 82 IAB 8/9/23 Regulatory Analysis	State Board Room Grimes State Office Bldg. Des Moines, Iowa	August 29, 2023 9 to 10 a.m.
Teacher and administrator quality programs, ch 83 IAB 8/23/23 Regulatory Analysis	ICN Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	September 12, 2023 9 to 10 a.m.
Business procedures and deadlines, ch 99 IAB 8/9/23 Regulatory Analysis	State Board Room Grimes State Office Bldg. Des Moines, Iowa	August 29, 2023 9 to 10 a.m.

LABOR SERVICES DIVISION[875]

Child labor, amendments to ch 32 IAB 8/23/23 Regulatory Analysis	Conference Room 106 150 Des Moines St. Des Moines, Iowa	September 26, 2023 9:30 to 10:30 a.m.
Request for extended inspection interval, 90.6(10) IAB 8/23/23 Regulatory Analysis	Conference Room 106 150 Des Moines St. Des Moines, Iowa	September 19, 2023 9:30 to 10 a.m.

REVENUE DEPARTMENT[701]

Settlement authority, rescind ch 3; amend chs 7, 10, 101, 108, 254, 300, 305, 504, 603, 700, 900; adopt ch 19 IAB 8/23/23 Regulatory Analysis	Room 430 Hoover State Office Bldg. Des Moines, Iowa Virtual: meet.google.com/kma-gexe-wrk	September 13, 2023 9:30 to 10:30 a.m.
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REVENUE DEPARTMENT[701](cont'd)

Setoff of debts owed to public agencies, ch 26 IAB 8/9/23 ARC 7054C	Rooms 429 and 430 Hoover State Office Bldg. Des Moines, Iowa Google Meet: meet.google.com/ajx-eicx-hum Via telephone: 1.502.547.1252 When prompted: 231 953 134# Mute telephone or microphone upon entering the meeting	August 29, 2023 9 to 10 p.m.
UTILITIES DIVISION[199]		
Organization and operation, ch 1 IAB 8/23/23 Regulatory Analysis	Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa	September 26, 2023 9 a.m.
Rulemaking, ch 3 IAB 8/23/23 Regulatory Analysis	Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa	October 4, 2023 9 a.m.
Declaratory orders, ch 4 IAB 8/23/23 Regulatory Analysis	Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa	September 21, 2023 9 a.m.
Procedure for determining the competitiveness of a communications service or facility, rescind ch 5 IAB 8/23/23 Regulatory Analysis	Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa	September 26, 2023 2 p.m.
Complaint procedures, ch 6 IAB 8/23/23 Regulatory Analysis	Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa	September 13, 2023 1 p.m.
Practice and procedure, ch 7 IAB 8/23/23 Regulatory Analysis	Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa	October 5, 2023 1:30 p.m.
Civil penalties, rescind ch 8 IAB 8/23/23 Regulatory Analysis	Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa	September 21, 2023 2 p.m.
Interstate natural gas pipelines and underground storage, rescind ch 12 IAB 8/23/23 Regulatory Analysis	Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa	September 20, 2023 2 p.m.
Utility records, ch 18 IAB 8/23/23 Regulatory Analysis	Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa	September 13, 2023 9 a.m.

UTILITIES DIVISION[199](cont'd)

Regulation of electric cooperatives and municipal electric utilities under Iowa Code chapter 476, ch 27
IAB 8/23/23
Regulatory Analysis

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

September 25, 2023
9 a.m.

Nonutility services—recordkeeping and cost allocations, ch 33
IAB 8/9/23
Regulatory Analysis

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

September 6, 2023
9 a.m.

Nonutility service, ch 34
IAB 8/9/23
Regulatory Analysis

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

September 6, 2023
10 a.m.

Equipment distribution program, ch 37
IAB 8/23/23
Regulatory Analysis

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

September 18, 2023
2 p.m.

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Physician assistants, 24.23(6), 24.25(35), 24.26
IAB 8/9/23
Regulatory Analysis

Iowa Workforce Development
1000 E. Grand Ave.
Des Moines, Iowa

August 29, 2023
10 a.m.

The following list will be updated as changes occur.

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

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

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

ADMINISTRATIVE SERVICES DEPARTMENT[11]
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AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]
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AUDITOR OF STATE[81]
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Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 281—Chapter 25
“Pathways for Academic Career and Employment Program; Gap Tuition Assistance Program”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 260H.8 and 260I.11
State or federal law(s) implemented by the rulemaking: Iowa Code chapters 260H and 260I

Public Hearing

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

September 12, 2023
9 to 10 a.m.

ICN Room, Second Floor
Grimes State Office Building
Des Moines, Iowa

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis. Written comments in response to this Regulatory Analysis must be received by the Department of Education no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Thomas A. Mayes
Department of Education
Grimes State Office Building, Second Floor
400 East 14th Street
Des Moines, Iowa 50319-0146
Phone: 515.281.8661
Email: thomas.mayes@iowa.gov

Purpose and Summary

This rule implements two programs, the Pathways for Academic Career and Employment Program and the Gap Tuition Assistance Program, to support Iowans who are preparing for high-demand positions in today’s economy.

Analysis of Impact

1. Persons affected by the proposed rulemaking:
 - Classes of persons that will bear the costs of the proposed rulemaking:
Schools and community colleges will bear the costs of the proposed rulemaking.
 - Classes of persons that will benefit from the proposed rulemaking:
Students and employers will benefit from the proposed rulemaking.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:
 - Quantitative description of impact:
This proposed rulemaking provides support for a large number of Iowans in attaining higher education to make them more competitive in the global economy. In the most recent monitoring year, 1,612 Iowans completed a credential under Chapter 25.
 - Qualitative description of impact:
The Department discerns no qualitative impact from the proposed rulemaking.

3. Costs to the State:
 - Implementation and enforcement costs borne by the agency or any other agency:

The Department bears the costs of enforcement through its general appropriation.

- Anticipated effect on state revenues:

There is no anticipated effect on state revenues. These programs are funded by an annual appropriation.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

The status quo chapter contains many instances of overly restrictive language and language that duplicates statutory text verbatim. The proposed rulemaking eliminates that language.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

The Department has attempted to streamline the rules it is required to adopt.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:

No alternative methods were considered because the Department was required to adopt rules to implement two Iowa Code chapters.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking:

The rulemaking is required.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

There is no discernable impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 281—Chapter 25 and adopt the following **new** chapter in lieu thereof:

CHAPTER 25 PATHWAYS FOR ACADEMIC CAREER AND EMPLOYMENT PROGRAM; GAP TUITION ASSISTANCE PROGRAM

DIVISION I GENERAL PROVISIONS

281—25.1(260H,260I) Definitions.

“Department” means the Iowa department of education.

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

“*Dislocated worker*” means an individual eligible for services and benefits under the federal Trade Adjustment Act of 2002, P.L. 107-210. To be eligible, an individual must meet both criteria 1 and 2, plus any one of criteria 3 through 8:

1. The individual is registered for the selective service, if applicable; and
2. The individual is a citizen or national of the United States, a lawfully admitted permanent resident alien, a lawfully admitted refugee or parolee or an individual authorized by the Attorney General to work in the United States.
3. The individual:
 - Has been laid off or terminated, and
 - Is eligible for or has exhausted entitlement to unemployment compensation, and
 - Is unlikely to return to the individual’s previous industry or occupation; or
4. The individual:
 - Is in receipt of a notice of layoff or termination from employment, and
 - Will be entitled to unemployment compensation at the time of layoff or termination, and
 - Is unlikely to return to the individual’s previous industry or occupation; or
5. The individual:
 - Has been laid off or terminated, or has received a termination notice, and
 - Has been employed for a duration of time to sufficiently demonstrate attachment to the workforce, and
 - Is not eligible for unemployment compensation due to insufficient earnings, or has performed services for an employer not covered under the unemployment compensation law, and
 - Is unlikely to return to the individual’s previous industry or occupation; or
6. The individual has been laid off or terminated, or has received notice of layoff or termination, as a result of a permanent closure of or any substantial layoff at a plant, facility or enterprise; or
7. The individual was formerly self-employed and is unemployed from the individual’s business; or
8. The individual:
 - Is a displaced homemaker who has been providing unpaid services to family members in the home, and
 - Has been dependent on the income of another family member, and is no longer supported by that income, and
 - Is unemployed or underemployed, and
 - Is experiencing difficulty in obtaining or upgrading employment.

“*Federal poverty level*” means the most recently revised poverty income guidelines published by the federal Department of Health and Human Services.

“*IWD*” means the Iowa workforce development department.

“*Low skilled*” means an adult individual who is basic skills deficient, has lower level digital literacy skills, has an education below a high school diploma, or has a low level of educational attainment that inhibits the individual’s ability to compete for skilled occupations that provide opportunity for a self-sufficient wage.

“*State board*” means the Iowa state board of education.

“*Underemployed*” means an adult individual who is working less than 30 hours per week, or who is employed any number of hours per week in a job that is substantially below the individual’s skill level and that does not lead to self-sufficiency.

“*Unemployed*” means an adult individual who is involuntarily unemployed and is actively engaged in seeking employment.

DIVISION II
PATHWAYS FOR ACADEMIC CAREER AND EMPLOYMENT (PACE) PROGRAM

281—25.2(260) PACE program. The pathways for academic career and employment program (hereinafter referred to as PACE) is established to provide funding to community colleges for the development of projects that will lead to gainful, quality, in-state employment for members of target populations by providing them with both effective academic and employment training to ensure gainful employment and customized support services.

25.2(1) Target populations. Individuals included in target populations are those individuals who meet one or more of the following:

- a. Are deemed by definition to be low skilled.
- b. Earn incomes at or below 250 percent of the federal poverty level.
- c. Are unemployed.
- d. Are underemployed.
- e. Are dislocated workers.

25.2(2) Eligibility criteria for projects. Projects eligible for funding for PACE are to be projects that further the ability of members of target populations to secure gainful, quality employment; that further partnerships linking community colleges to industry and nonprofit organizations; and that further the following program outcomes:

- a. Enabling members of the target populations to:
 - (1) Acquire and demonstrate competency in basic skills.
 - (2) Acquire and demonstrate competency in a specified technical field.
 - (3) Complete a specified level of postsecondary education.
 - (4) Earn a national career readiness certificate.
 - (5) Obtain employer-validated credentials.
 - (6) Secure gainful employment in high-quality, local jobs.
- b. Meeting economic and employment goals, including:
 - (1) Economic and workforce development requirements in each region served by the community colleges as defined by local advisory boards established pursuant to Iowa Code section 84A.4.
 - (2) Needs of industry partners in areas including but not limited to the fields of information technology, health care, advanced manufacturing, transportation and logistics, and any other industry designated as in-demand by a local advisory board established pursuant to Iowa Code section 84A.4.

281—25.3(260H) Program component requirements. Program components for a PACE project implemented at a community college are to meet the terms of Iowa Code section 260H.5.

281—25.4(260H) Pipeline program. Each community college receiving funding for PACE is to meet the terms of Iowa Code section 260H.6.

281—25.5(260H) Career pathways and bridge curriculum development program. Each community college receiving funding for PACE is to meet the terms of Iowa Code section 260H.7.

281—25.6(260H) Pathway navigators. A community college may use moneys for the PACE program to employ pathway navigators to assist students as specified in Iowa Code section 260H.7A.

DIVISION III
GAP TUITION ASSISTANCE PROGRAM

281—25.7(260I) Gap tuition assistance program. A gap tuition assistance program is established to provide funding to community colleges for need-based tuition assistance to enable applicants to complete continuing education certificate training programs for in-demand occupations.

25.7(1) Applicants for tuition assistance. Eligibility for tuition assistance will be based on financial need. Eligibility criteria are set forth in Iowa Code sections 260I.3 and 260I.4.

25.7(2) *Eligible costs.* Costs of an eligible certificate program are set forth in Iowa Code section 260I.5.

25.7(3) *Eligible certificate programs.* For the purposes of this division, “eligible certificate program” means a program satisfying the criteria in Iowa Code section 260I.6.

281—25.8(260I) Initial assessment. An eligible applicant for tuition assistance under this division is subject to an initial assessment administered by the community college pursuant to Iowa Code section 260I.7. In assessing an applicant under this division, a community college will use the national career readiness certificate; an assessment eligible under the Adult Education and Family Literacy Act, 20 U.S.C. Ch. 73, and approved by the department for use in an adult education and literacy program; or an established process utilizing valid measures for determining preparedness for the eligible certificate program, which may include processes for measuring academic preparedness used by the community college for placement of students into credit coursework.

281—25.9(260I) Program interview. An eligible applicant for tuition assistance under this division is subject to an initial interview with the gap tuition assistance coordinator for the community college receiving the application. This interview is subject to the provision of Iowa Code section 260I.8.

281—25.10(260I) Participation requirements. Participating individuals are subject to the provisions of Iowa Code section 260I.9.

281—25.11(260I) Oversight. Statewide oversight, evaluation, and reporting efforts for the gap tuition assistance program are coordinated by the department pursuant to the terms of Iowa Code section 260I.10.

25.11(1) A steering committee consisting of the Iowa department of education, the Iowa workforce development department, and community college continuing education deans and directors is established to determine if the performance measures of the gap tuition assistance program are being met and to correct any deficiencies. The steering committee will meet at least quarterly to evaluate and monitor the performance of the gap tuition assistance program.

25.11(2) A common intake tracking system is established pursuant to Iowa Code section 260I.10(2).

25.11(3) The steering committee will develop the required program criteria for PACE and gap tuition assistance-certified programs to be eligible for tuition assistance and program funding. These criteria will be developed based on best practices in the development and delivery of career pathway programs that provide a clear sequence of education coursework and credentials aligned with regional workforce skill needs; clearly articulate from one level of instruction to the next; combine occupational skills and remedial adult education; lead to the attainment of a credential or degree; assist with job placement; and provide wraparound social and socioeconomic support services with the goal of increasing the individual’s skills attainment and employment potential.

25.11(4) To ensure efficient delivery of services, the department, in consultation with the community colleges, may redistribute funds available to the community colleges for purposes of this division.

These rules are intended to implement Iowa Code chapters 260H and 260I.

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 281—Chapter 27
“Workforce Training and Economic Development Funds”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 256.7(5)
State or federal law(s) implemented by the rulemaking: Iowa Code section 260C.18A

Public Hearing

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

September 12, 2023
9 to 10 a.m.

ICN Room, Second Floor
Grimes State Office Building
Des Moines, Iowa

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis. Written comments in response to this Regulatory Analysis must be received by the Department of Education no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Thomas A. Mayes
Grimes State Office Building, Second Floor
400 East 14th Street
Des Moines, Iowa 50319-0146
Phone: 515.281.8661
Email: thomas.mayes@iowa.gov

Purpose and Summary

This proposed rulemaking implements a program to support Iowa employees and employers by increasing and providing education to address the workforce needs of the state.

Analysis of Impact

1. Persons affected by the proposed rulemaking:
 - Classes of persons that will bear the costs of the proposed rulemaking:
Education institutions will bear the costs of the proposed rulemaking.
 - Classes of persons that will benefit from the proposed rulemaking:
Iowa students and their present and future employers will benefit from the proposed rulemaking.
2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:
 - Quantitative description of impact:
The current Chapter 27, in the most recent reporting year, provided support to 56,098 Iowans who completed programs involving 3,551 businesses.
 - Qualitative description of impact:
The Department discerns no qualitative impact from the proposed rulemaking.
3. Costs to the State:
 - Implementation and enforcement costs borne by the agency or any other agency:
The Department bears the costs of enforcement through its general appropriation.
 - Anticipated effect on state revenues:

There is no anticipated effect on state revenues.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

The current Chapter 27 contains many instances of overly restrictive language and language that duplicates statutory text verbatim. This proposed rulemaking eliminates that language.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

The Department has attempted to streamline the chapter it is required to adopt.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:

The Department is required to adopt rules to implement Iowa Code section 260C.18A.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking:

The rulemaking is required.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

There is no discernable impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 281—Chapter 27 and adopt the following **new** chapter in lieu thereof:

CHAPTER 27

WORKFORCE TRAINING AND ECONOMIC DEVELOPMENT FUNDS

281—27.1(260C) Definitions.

“*Community college*” or “*college*” means a community college established under Iowa Code chapter 260C.

“*Department*” means the Iowa department of education.

“*Fund*” or “*funds*” means the workforce training and economic development funds created by Iowa Code section 260C.18A and allocated to each community college.

“*Project*” means a training or educational activity funded under this chapter.

“*State board*” or “*board*” means the Iowa state board of education.

“*Targeted areas*” means the areas of advanced manufacturing; information technology and insurance; alternative and renewable energy, including the alternative and renewable energy sectors

listed in Iowa Code section 476.42(1) “a”; and life sciences, which include the areas of biotechnology, health care technology, and nursing care technology.

281—27.2(260C) Funds allocation. A fund is created and the department will allocate moneys as specified in Iowa Code section 260C.18A(2).

281—27.3(260C) Community college workforce and economic development fund plans and progress reports. Each community college, to receive its allocation for the forthcoming fiscal year, is to prepare and submit to the department for state board consideration the following items for the fiscal year.

27.3(1) Workforce training and economic development fund plan. Each college will adopt a workforce training and economic development fund plan for the upcoming year that outlines the community college’s proposed use of moneys appropriated to its fund. Plans are to be based on fiscal years and submitted to the department, in a manner prescribed by the department, by September 30 for the current fiscal year allocation. Plans are to describe how the college proposes to allocate funds to support individual allowable uses pursuant to rule 281—27.4(260C) and the planned amount to be used to support targeted areas.

27.3(2) Progress reports. Each college that receives an allocation of moneys pursuant to rule 281—27.2(260C) will prepare an annual progress report detailing the plan’s implementation. The report is to be submitted to the department by September 30 of each year in a manner and form as prescribed by the department. The report will provide information regarding projects supported by the college’s fund, including the number of participants enrolled in each program, the number of participants who complete each program, the dollars spent on each allowable use pursuant to rule 281—27.4(260C), the dollars spent in targeted areas, and other data necessary to report on state program performance metrics.

281—27.4(260C) Use of funds. Moneys deposited into each community college fund are to be expended as specified in Iowa Code section 260C.18A. Any individual project using over \$1 million of moneys from a workforce training and economic development fund requires prior approval from the state board.

281—27.5(260C) Annual plan and progress report approval.

27.5(1) The state board will review and consider approval of reports and plans submitted pursuant to rule 281—27.3(260C).

27.5(2) The state board may reject a plan or progress report for any of the following reasons, including:

- a. Incomplete information or data;
- b. Failure to comply with rule 281—27.4(260C);
- c. Project not operated in compliance with state or federal law.

27.5(3) If the state board does not accept a college’s annual progress report, the college is subject to the following actions as prescribed by the board based upon the severity of the noncompliance or default, including:

- a. The withholding of a portion of new fiscal year moneys based upon amounts awarded deemed to be ineligible;
- b. Tighter oversight and control of the college’s fund by the department;
- c. Loss of funds for one year;
- d. Other action deemed appropriate by the board.

These rules are intended to implement Iowa Code section 260C.18A.

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 281—Chapter 35
“Educational and Program Standards for Children’s Residential Facilities”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 282.34
State or federal law(s) implemented by the rulemaking: Iowa Code section 282.34

Public Hearing

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

September 12, 2023
9 to 10 a.m.

ICN Room, Second Floor
Grimes State Office Building
Des Moines, Iowa

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis. Written comments in response to this Regulatory Analysis must be received by the Department of Education no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Thomas A. Mayes
Grimes State Office Building, Second Floor
400 East 14th Street
Des Moines, Iowa 50319-0146
Phone: 515.281.8661
Email: thomas.mayes@iowa.gov

Purpose and Summary

This proposed rulemaking implements protections for children placed by their parents at private residential facilities.

Analysis of Impact

1. Persons affected by the proposed rulemaking:
 - Classes of persons that will bear the costs of the proposed rulemaking:
Private residential facilities will bear the costs of the proposed rulemaking.
 - Classes of persons that will benefit from the proposed rulemaking:
Students and their families will benefit from the proposed rulemaking.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:
 - Quantitative description of impact:
This proposed rulemaking provides support for a large number of Iowans in attaining higher education to make them more competitive in the global economy. In the most recent monitoring year, 1,612 Iowans completed a credential under this chapter.
 - Qualitative description of impact:
The Department discerns no qualitative impact from this chapter.

3. Costs to the State:
 - Implementation and enforcement costs borne by the agency or any other agency:
The Department bears the costs of enforcement through its general appropriation.

- Anticipated effect on state revenues:

There is no anticipated effect on state revenues. This chapter is funded by an annual appropriation.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

The current Chapter 35 contains many instances of overly restrictive language and language that duplicates statutory text verbatim. This proposed rulemaking eliminates that language.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

The Department has attempted to streamline the chapter it is required to adopt.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:

The Department is required to implement rules to implement Iowa Code provisions.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking:

The rulemaking is required.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

There is no discernable impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 281—Chapter 35 and adopt the following **new** chapter in lieu thereof:

CHAPTER 35

EDUCATIONAL AND PROGRAM STANDARDS FOR CHILDREN'S RESIDENTIAL FACILITIES

281—35.1(282) General. All school-age children, including children younger than 5 years of age and older than 18 years of age who are eligible children to receive special education, who are living in any children's residential facility providing residential care to children within the state of Iowa, which is not otherwise exempted by the Iowa Code, are to be provided an appropriate education.

281—35.2(282) Definitions. For purposes of this chapter, the following definitions apply:

“Child” or “children” means an individual or individuals under 18 years of age. A child is “school-age” if the child is at least 5 years of age on September 15 but not more than 21 years of age

or if the child is younger than 5 years of age or older than 18 years of age and is an eligible child to receive special education.

“*Children’s residential facility*” means the same as defined in Iowa Code section 237C.1(3) and may also be referred to as a “private facility.” It does not include any facility that houses school-age children and children eligible to receive special education who are under the jurisdiction of the department of corrections, department of human services, board of regents, or other governmental agency and that has current authority to offer direct instruction to children from funding available to one of the above agencies.

281—35.3(282) Establishing an appropriate educational program. A children’s residential facility may accept any child of school age or a child who is eligible to receive special education services only after it has been issued a certificate of approval by the department of health and human services and has established an appropriate educational program and services under this chapter.

35.3(1) A private facility will establish an appropriate educational program using one of the options provided in Iowa Code section 282.34(1).

35.3(2) Any contract established by the private facility with a school district or accredited nonpublic school is to include, at a minimum, the physical location of the educational program and educational services; the parties involved; the purpose of the contract; the program description in detail; the powers, duties and authority of each party to the contract; the jurisdiction of each party to the contract; the dispute resolution procedure; specifications of the services that are contracted, if any, and how costs are to be calculated; billing procedures; how each legal, testing, and reporting obligation will be met; ownership of property belonging to the party that paid the cost or contributed the item; contract amendment procedures; contract approval procedures; contract renewal and termination procedures; duration of the contract; cross indemnification; application of laws, rules and regulations; binding effect; severability; assurances; and signature of the school board with legal power to authorize the terms of the contract. Any contract developed under this rule is to be submitted to the department of education for review and approval by the director of the department prior to enactment. A contract that fails to comply with any of the provisions of this chapter is void.

35.3(3) Children residing in a private facility who need treatment or security throughout the day shall have classrooms made available at the site of the private facility at no cost to the school district providing the instructional program or instructional supervision. The classroom is to meet the requirements for educational space for children in accordance with the Iowa Code, administrative rules, and state fire marshal regulations.

35.3(4) Nothing included in this chapter regulates religious education curricula of any private facility.

281—35.4(282) Notices, fees, and reporting.

35.4(1) A private facility is to comply with Iowa Code sections 282.34(1) “b” and 282.34(1) “c.”

35.4(2) If the educational programs and educational services are provided by or through the public school district of location, only fees related to the educational programs and educational services that are authorized by the Iowa Code, including but not limited to Iowa Code chapter 282, may be charged. The public school district cannot charge nonresident students a higher fee than resident students.

35.4(3) A private facility is to comply with requests by the Iowa department of education for basic educational and financial information.

281—35.5(282) Provision of appropriate educational services.

35.5(1) A private facility is to fully cooperate with the area education agency and school district in which the facility is located to fulfill the area education agency’s responsibilities for child find under 281—Chapter 41, including making a child available for evaluation and provision of services for which the child is eligible.

35.5(2) If a child does not need treatment or security by a private facility in such a time or manner as is needed to remain on the campus of the private facility, a child with an individual education plan is

to be provided special education instruction and related services with other nondisabled children within the least restrictive environment to the maximum extent appropriate.

35.5(3) The area education agency in which the private facility is located, the school district of residence, and other appropriate public or private agencies or private individuals involved with the care or placement of a child will cooperate with the school district in which the private facility is located in sharing educational information, textbooks, curricula, assignments, and materials to plan and to provide for the appropriate education of the child living in a private facility and to ensure academic credit is granted to the child for instructional time earned upon discharge from the private residential facility.

35.5(4) A private facility that houses eligible children who are four years of age by September 15 of the school year will notify the parents or legal guardians of these eligible children about the opportunities to access quality preschool programs. Children whose parents are Iowa residents may access the statewide voluntary preschool program under 281—Chapter 16 at no cost to the parents, and transportation will be provided by the public school district in which the statewide voluntary preschool provider is located from its statewide voluntary preschool programs funding. Children whose parents are not Iowa residents may access the statewide voluntary preschool programs, if space is available, through a tuition and transportation agreement with the public school district in which the statewide voluntary preschool program provider is located.

These rules are intended to implement Iowa Code section 282.34.

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 281—Chapter 49
“Individual Career and Academic Plan”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 279.61
State or federal law(s) implemented by the rulemaking: Iowa Code section 279.61

Public Hearing

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

September 12, 2023
9 to 10 a.m.

ICN Room, Second Floor
Grimes State Office Building
Des Moines, Iowa

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis. Written comments in response to this Regulatory Analysis must be received by the Department of Education no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Thomas A. Mayes
Grimes State Office Building, Second Floor
400 East 14th Street
Des Moines, Iowa 50319-0146
Phone: 515.281.8661
Email: thomas.mayes@iowa.gov

Purpose and Summary

This proposed rulemaking implements a program to support Iowa students and their families in their academic and career planning.

Analysis of Impact

1. Persons affected by the proposed rulemaking:
 - Classes of persons that will bear the costs of the proposed rulemaking:
Education institutions will bear the costs of the proposed rulemaking.
 - Classes of persons that will benefit from the proposed rulemaking:
Iowa students and their present and future employers will benefit from the proposed rulemaking.
2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:
 - Quantitative description of impact:
The proposed rulemaking maintains the current public policy. During the most recent reporting year, and under the current rules, 141,930 Iowa students identified postsecondary or career goals.
 - Qualitative description of impact:
The Department discerns no qualitative impact from this chapter.
3. Costs to the State:
 - Implementation and enforcement costs borne by the agency or any other agency:
The Department bears the costs of enforcement through its general appropriation.
 - Anticipated effect on state revenues:

There is no anticipated effect on state revenues.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

The current Chapter 49 contains many instances of overly restrictive language and language that duplicates statutory text verbatim. This proposed rulemaking eliminates that language.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

The Department has attempted to streamline the chapter it is required to adopt.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:

The Department is required to adopt rules to implement Iowa Code section 279.61.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking:

The rulemaking is required.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

There is no discernable impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 281—Chapter 49 and adopt the following **new** chapter in lieu thereof:

CHAPTER 49 INDIVIDUAL CAREER AND ACADEMIC PLAN

281—49.1(279) Definitions. For purposes of this chapter, the following definitions apply:

“*Approved system*” means a vendor-provided career information and decision-making system that meets the standards of rule 281—49.5(279).

“*Board*” means the board of directors of a public school district.

“*Career cluster*” means a nationally recognized framework for organizing and classifying career and technical education programs.

“*Department*” means the Iowa department of education.

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

“*District plan*” means the career and academic plan developed by each school district that details the delivery of career guidance and development in compliance with this chapter.

“*Educational program*” means the educational program as defined in 281—Chapter 12.

“*Plan*” means the individualized career and academic plan established under this chapter that is created by each student of the school district in eighth grade and which, at a minimum, meets the standards of rule 281—49.2(279).

“*Postsecondary readiness*” means college and career readiness in Iowa as defined by the state board of education.

“*School counseling program*” means the school counseling program established by Iowa Code section 256.11(9A).

“*Student*” means an enrolled student as defined in 281—Chapter 12.

“*Work-based learning*” means planned and supervised connections of classroom, laboratory and industry that prepare students for current and future careers.

281—49.2(279) Individualized career and academic plan. The plan established under this rule is to, at a minimum, comply with the provisions of Iowa Code section 279.61.

281—49.3(279) Essential components. The district is to engage each student in activities that support the following essential components of the individualized career and academic plan:

49.3(1) *Self-understanding.* Students are to engage in developmentally appropriate inventories and assessments that promote self-understanding and the connection to work and engage in meaningful reflective activities about the results.

49.3(2) *Career information.* Students are to research careers based on self-understanding results and engage in meaningful reflection about the findings.

49.3(3) *Career exploration.* Students are to engage in activities that reveal connections among school-based instruction, career clusters, and the world of work and engage in meaningful reflection.

49.3(4) *Postsecondary exploration.* Students are to engage in activities to explore relevant postsecondary education and training options related to career interests and engage in meaningful reflection on the exploration experience.

49.3(5) *Career and postsecondary decision.* Students are to complete relevant activities to meet their postsecondary goals consistent with the plan and stated postsecondary intention.

281—49.4(279) District plan.

49.4(1) *Components of district plan.* The school district shall develop a written career plan. The district plan is to include the following components:

a. The district is to, at a minimum, describe the following aspects of the district plan.

(1) The activities to be undertaken in each grade level to achieve the provisions of rule 281—49.2(279).

(2) Integration of the career plan within connected district initiatives and other facets of the school district’s comprehensive school counseling program.

(3) At the district’s discretion, any additional outcomes to be integrated into the career and academic planning system.

b. Designation of team. The superintendent of each school district is to designate a team of education practitioners to carry out the duties assigned to the school district under this rule. The district plan is to include a list, by job position, of the designated district team.

(1) Team composition. The team will include a school administrator; a school counselor; teachers, including career and technical education teachers; and individuals responsible for coordinating work-based learning activities.

(2) Duties. The team is responsible for the following:

1. Implementation of the district plan.

2. Annually reviewing and, as necessary, proposing to the school district revisions to the district plan.

3. Coordination of activities which integrate essential components into classroom instruction and other facets of the school district’s educational program.

4. Regularly consulting with representatives of employers, state and local workforce systems and centers, higher education institutions, and postsecondary training programs.

49.4(2) Maintenance of district plan. The district plan will be regularly reviewed and revised by the team and the board.

281—49.5(279) Career information and decision-making systems. Each district shall use a career information and decision-making system that meets the standards established in subrule 49.5(3).

49.5(1) Review process. The department will establish a process for the review of vendor-provided career information and decision-making systems to determine which career information and decision-making systems meet the minimum specifications established in subrule 49.5(3).

49.5(2) State-designated system. The department will establish a process for the review and approval of a single state-designated career information and decision-making system from among the systems approved through the process established in subrule 49.5(1), which districts may use in compliance with this chapter.

49.5(3) Minimum functions of approved systems. An approved system is to, at a minimum, support implementation of rule 281—49.2(279) and meet the following specifications:

a. Allow for the creation of student accounts, which allow a student to store and access the results and information gathered from the inventories, searches, and associated activities outlined in paragraphs 49.5(3) “*b*” through “*d*.”

b. Include developmentally appropriate inventories and assessments that promote self-understanding and the connection to work. Inventories and assessments are to include an interest inventory; a work values assessment; and an abilities, strengths, or skills assessment.

c. Include a search platform for career information. The platform is to allow a student to access and review career information related to the results of the inventories listed in paragraph 49.5(3) “*b*.” Career information will include current and accurate state and national wage, earning, and employment outlook data for a given occupation; job descriptions, including such information as essential duties and aptitudes; and training and education requirements. The career information search platform is to, at a minimum, allow a student to sort information by wage and earning, career cluster, and training and education requirements.

d. Include a search platform for postsecondary information. Postsecondary information is to include, but not be limited to, a current, accurate, and comprehensive database of accredited professional colleges, technical and community colleges, and public and private baccalaureate colleges and universities; and include or provide links to apprenticeship and military opportunities. The postsecondary information search platform will, at a minimum, allow a student to sort information by program and degree type, institution type, location, size of enrollment, and affiliation and appropriate institutional characteristics, such as designation as a historically black college and university or Hispanic-serving institution, and religious affiliation.

e. Track basic utilization for the functions outlined in paragraphs 49.5(3) “*a*” through “*d*.” Districts are to have the ability to generate and export a report on the utilization statistics.

f. Ensure compliance with applicable federal and state civil rights laws.

g. Disclose the source and age of, as well as frequency of updates to, all information and data.

h. Provide auxiliary services, including:

- (1) A process for districts to submit comments, feedback, and modification requests to the vendor.
- (2) Technical assistance during regular school district operating hours.
- (3) Appropriate training for users.

49.5(4) Supplemental systems. The department will maintain a list of supplemental systems that districts may use to satisfy the components of rule 281—49.2(279).

a. The department is to establish a process for the review of supplemental systems. The review will, at a minimum, identify the components of rule 281—49.2(279) and paragraphs 49.5(3) “*b*” through “*d*,” which are satisfied through the supplemental system. All supplemental systems are to comply with paragraphs 49.5(3) “*f*” and “*g*.”

b. A district that chooses to use a supplemental system is to specify which components of rule 281—49.2(279) are satisfied through the use of the supplemental system in the district plan established in rule 281—49.4(279). A district that chooses to utilize a supplemental tool must continue to utilize and make available to students an approved system.

281—49.6(279) Compliance. The director will monitor school districts for compliance with the provisions of this chapter through the accreditation process established for school districts under 281—Chapter 12.

49.6(1) Maintenance of student records. Each school district is to maintain evidence of student completion of the individualized career and academic plan established in rule 281—49.3(279), pursuant to rule 281—12.3(256).

49.6(2) Reporting. The board of directors of each school will complete the reports set forth in Iowa Code section 279.61(5). The board is to report to the department at least annually, and in a manner and frequency established by the department, regarding student participation in work-based learning programs established by the board, including registered apprenticeships, quality pre-apprenticeships, internships, on-the-job training, and projects through the Iowa clearinghouse for work-based learning.

49.6(3) Department responsibilities. Iowa Code section 279.61(6) is incorporated by this reference. These rules are intended to implement Iowa Code section 279.61.

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 281—Chapter 61
“Iowa Reading Research Center”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 256.7(31)
State or federal law(s) implemented by the rulemaking: Iowa Code section 256.7(31)

Public Hearing

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

September 12, 2023
9 to 10 a.m.

ICN Room, Second Floor
Grimes State Office Building
Des Moines, Iowa

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis. Written comments in response to this Regulatory Analysis must be received by the Department of Education no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Thomas A. Mayes
Grimes State Office Building, Second Floor
400 East 14th Street
Des Moines, Iowa 50319-0146
Phone: 515.281.8661
Email: thomas.mayes@iowa.gov

Purpose and Summary

This proposed rulemaking implements the Iowa Reading Research Center, which supports Iowa schools and families with evidence-based literacy instruction.

Analysis of Impact

1. Persons affected by the proposed rulemaking:
 - Classes of persons that will bear the costs of the proposed rulemaking:
The Iowa Reading Research Center will bear the costs of the proposed rulemaking, which is defrayed by an appropriation.
 - Classes of persons that will benefit from the proposed rulemaking:
Iowa students, their teachers and families, and their present and future employers will benefit from the proposed rulemaking.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:
 - Quantitative description of impact:
The proposed rulemaking intends to maintain the current support provided by the Iowa Reading Research Center (IRRC). The IRRC provides a large amount of support and technical assistance to Iowa’s schools, in the form of training, assessments, and practice guides. These are detailed in the IRRC’s most recent annual report, which can be found here: irrc.education.uiowa.edu/sites/irrc.education.uiowa.edu/files/2023-04/fy_23_annual_report_irrc.pdf.
 - Qualitative description of impact:
The Department discerns no qualitative impact from this chapter.

3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency:
The Department bears the costs of enforcement through its general appropriation.
- Anticipated effect on state revenues:
There is no anticipated effect on state revenues.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

The current Chapter 61 contains many instances of overly restrictive language and language that duplicates statutory text verbatim. This proposed rulemaking eliminates that language.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

The Department has attempted to streamline the rule it is required to adopt.

The Department proposes removing current paragraph 61.6(4)“d,” which currently allows the IRRC to charge for the actual costs of providing its services. This is inconsistent with the underlying statute, which does not authorize these charges and which requires professional development services to be provided at no cost.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:
The Department is required to adopt rules to implement this program.
- Reasons why alternative methods were rejected in favor of the proposed rulemaking:
The rulemaking is required.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking’s compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

There is no discernable impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 281—Chapter 61 and adopt the following **new** chapter in lieu thereof:

CHAPTER 61 IOWA READING RESEARCH CENTER

281—61.1(256) Establishment. There is established an Iowa reading research center (center). The director of the department of education will select a public education entity to serve as the host for the center. The director will give preference to a school district, an area education agency, or the joint area education agencies system. The selection of a host is to be for a specified period of time.

281—61.2(256) Purpose. The center's purpose is set forth in Iowa Code section 256.9(49) "c"(1).

281—61.3(256) Intensive summer literacy program. The center hereby establishes program criteria and guidelines for voluntary implementation of the program by school districts.

61.3(1) Program criteria: summer reading programs pursuant to Iowa Code section 279.68. Each district that chooses to implement a summer reading program as part of its implementation of Iowa Code section 279.68(2) "a"(6) is to comply with the terms of that section and 281—Chapter 62. A school district will employ appropriately licensed and supervised teachers and paraprofessionals, will monitor student progress, and is encouraged to use an evidence-based curriculum.

61.3(2) Additional voluntary program criteria: intensive summer literacy program. Each district's voluntary intensive summer literacy program is encouraged to meet, in addition to the terms of subrule 61.3(1), the following program criteria.

a. Criterion 1. Each district is encouraged to adopt instructional practices or programs that have some evidence of success and that include explicit and systematic instruction in foundational reading skills based on student need, consistent with Iowa Code section 279.68.

b. Criterion 2. Each district is to employ skilled, high-quality instructors. For the purposes of this paragraph, a district may hire or employ personnel directly, through an agreement with one or more other districts, through an agreement with one or more accredited nonpublic schools, through an agreement with one or more state agencies or governmental subdivisions, through an agreement with one or more private not-for-profit community agencies, or some combination thereof.

c. Criterion 3. Each district is encouraged to allow sufficient time for meaningful reading instruction and student learning.

d. Criterion 4. Each district is encouraged to provide instruction in small classes and small groups. To meet this criterion, a district is encouraged to employ the same instructional grouping formats described in the evidence-based intervention chosen. In the absence of specifications from the intervention chosen, a district is encouraged to ensure that it delivers whole-class instruction in class sizes of 15 or fewer students and that it delivers targeted intervention based on student need in small groups of 5 or fewer students.

e. Criterion 5. Each district is encouraged to monitor and promote student attendance.

f. Criterion 6. Each district is encouraged to evaluate student outcomes and the quality of program implementation, including implementation of these voluntary criteria.

g. Criterion 7. Each program is to be under the leadership and supervision of at least one appropriately licensed teacher and at least one appropriately licensed administrator. The two roles may be filled by the same individual. Nonlicensed personnel are to be supervised by an appropriately licensed teacher. It is encouraged that either the teacher or the administrator holds a reading (K-8) endorsement or a reading specialist endorsement.

h. Option to use private providers. A district may enter into an agreement with a private provider that uses evidence-based instructional strategies to provide summer literacy instruction under this chapter and 281—Chapter 62, at the election of a parent and in lieu of programming provided by the district. Any election under this paragraph is at the parent's sole cost.

61.3(3) Guidelines for implementation by school districts. The center is to:

a. Publish guidelines to assist school districts in applying the program criteria contained in subrule 61.3(1) and the voluntary criteria contained in subrule 61.3(2) and in improving the performance of intensive summer literacy programs.

b. Make such guidelines available on its website.

281—61.4(256) Nature of the center’s operation. The center’s work is governed by the provisions of Iowa Code section 256.9(49)“c”(2). Annually, the center submits the report specified in Iowa Code section 256.9(49)“c”(3).

281—61.5(256) Nature of the center’s products.

61.5(1) General. The center’s strategies, models, materials, and assessments, including the products referred to in subrule 61.6(3), are judged by and subject to the following requirements. To the extent possible, strategies, models, materials, and assessments, including the products referred to in subrule 61.6(3), shall:

- a. Be research-based.
- b. Contain evidence establishing that they are replicable by Iowa school districts, area education agencies, and accredited nonpublic schools.
- c. Contain evidence establishing that they are capable of sustainable implementation.
- d. Be widely and liberally distributed and used.

61.5(2) Intellectual property. Regardless of any intellectual property right that may accrue to the center, the department of education and each school district, area education agency, and accredited nonpublic school will have a perpetual, irrevocable, royalty-free, nonexclusive, nontransferable license to use any of the strategies, models, and materials produced by the center. Regardless of any intellectual property right that may accrue to the center, each school district, area education agency, accredited nonpublic school, and practitioner preparation program approved by the department of education has a perpetual, irrevocable, royalty-free, nonexclusive, nontransferable license to use any of the strategies, models, and materials produced by the center to provide training to current and prospective teachers and administrators.

281—61.6(256) Governance and leadership of the center.

61.6(1) Director and other personnel. The center’s director will be employed by the host referred to in rule 281—61.1(256). The director of the department of education or the director’s designee, in consultation with the host and the advisory council, will select, determine the compensation of, and annually evaluate the director of the center.

- a. Responsibilities of the director of the center will include the following:
 - (1) Enacting the priorities of the reading research center, as defined by the department;
 - (2) Achieving the Iowa reading research center’s mission and purpose;
 - (3) Directing the center’s budget;
 - (4) Managing the center’s staff;
 - (5) Managing and overseeing the request for proposal (RFP) or contracting process or both to enact priorities of the center;
 - (6) Providing oversight and management of all contracts and projects initiated by the center;
 - (7) Establishing models for an intensive summer literacy program replicable in Iowa schools;
 - (8) Disseminating literacy research and its application; and
 - (9) Submitting required reports to the department and the general assembly.

b. The center may employ such other personnel as may be necessary to fulfill its responsibilities, upon approval of such positions by the director of the department of education.

61.6(2) Advisory council. When setting priorities for the center, the department of education seeks advice and assistance from an advisory council. The advisory council is to establish its bylaws and govern itself by the following paragraphs:

- a. The advisory council will consist of representatives of the department, school districts, area education agencies, accredited nonpublic schools, institutions of higher education, organizations representing reading and literacy teachers, community-based nonprofit organizations that are focused on literacy, statewide literacy organizations, and parents. Members who offer other perspectives may be appointed. Members may serve in more than one role. Members are appointed by the director of the department of education or the director’s designee. Actual expenses for members of the advisory council may be assumed by the center.

b. The advisory council will recommend and continually review center priorities, which are to be consistent with these rules. The advisory council annually will submit to the department a recommended set of projects and priorities for the reading research center.

c. The advisory council will provide input to the director of the department on the desired qualifications for the position of director of the center.

d. The advisory council will advise and assist the center in preparing the annual report as set out in rule 281—61.4(256).

e. The advisory council will foster collaboration across the Iowa reading research and evaluation community and will serve as a facilitator in identifying additional research needs and ways to apply research to practice in Iowa schools and communities.

f. The advisory council will assist the director of the center in reviewing proposals for quality, viability, and statewide impact.

g. Meetings of the advisory council are public meetings subject to Iowa Code chapter 21.

61.6(3) *Use of advisory council recommendations.* The department is to consider the priorities established by its advisory council in determining which projects or activities to direct the center to enact, consistent with these rules and with the center's funding.

61.6(4) *Contracts and awards.* In the furtherance of its work, the center may contract with other entities or may make awards by competitive bid. The rules in this chapter are incorporated by reference in any contract or award under this subrule. Any product produced pursuant to a contract or award is subject to these rules, including subrule 61.5(2).

281—61.7(256) Financing of the center. The center will be financed in the following manner:

61.7(1) *Host as fiscal agent.* The host is the fiscal agent for the center.

61.7(2) *Public or private funds.* The host and the center may solicit and accept funds from public and private sources for the fulfillment of the mission and purpose of the center.

61.7(3) *Oversight by the department.* The department has oversight responsibilities for the financial operations of the center.

These rules are intended to implement Iowa Code sections 256.7(31) "b" and 256.9(49) "c."

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 281—Chapters 77 and 79
“Standards for Practitioner and Administrator Preparation Programs”

Iowa Code section authorizing rulemaking: 256.16

State or federal law(s) implemented by the rulemaking: Iowa Code section 256.16

Public Hearing

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

September 12, 2023
9 to 10 a.m.

ICN Room, Second Floor
Grimes State Office Building
Des Moines, Iowa

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis. Written comments in response to this Regulatory Analysis must be received by the Department of Education no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Thomas A. Mayes
Grimes State Office Building, Second Floor
400 East 14th Street
Des Moines, Iowa 50319
Phone: 515.281.8661
Email: thomas.mayes@iowa.gov

Purpose and Summary

This proposed rulemaking implements a program to approve the practitioner preparation programs that will train future Iowa educators.

Analysis of Impact

1. Persons affected by the proposed rulemaking:
 - Classes of persons that will bear the costs of the proposed rulemaking:
Educational institutions will bear the costs of the proposed rulemaking.
 - Classes of persons that will benefit from the proposed rulemaking:
Iowa students and their present and future employers will benefit from the proposed rulemaking.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:
 - Quantitative description of impact:
Each year, roughly 5 percent of Iowa’s teaching force consists of beginning teachers (teachers in the first two years of their careers).
 - Qualitative description of impact:
The Department discerns no qualitative impact.

3. Costs to the State:
 - Implementation and enforcement costs borne by the agency or any other agency:
The Department bears the costs of enforcement through its general appropriation.
 - Anticipated effect on state revenues:

There is no anticipated effect on state revenues.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

The status quo chapter contains many instances of overly restrictive language and language that duplicates statutory text verbatim. The proposed rulemaking eliminates that language.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

The Department has attempted to streamline the rules it is required to adopt.

The Department proposes consolidating two chapters (Chapter 77 and Chapter 79) that have common and overlapping provisions. The Department proposes retaining requirements that have the most demonstrable link to student success.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:

The Department is required to adopt rules to implement this program.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking: Rulemaking is required.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

There is no discernable impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind and reserve **281—Chapter 77**.

ITEM 2. Rescind 281—Chapter 79 and adopt the following **new** chapter in lieu thereof:

CHAPTER 79

STANDARDS FOR PRACTITIONER AND ADMINISTRATOR PREPARATION PROGRAMS

DIVISION I

GENERAL STANDARDS APPLICABLE TO ALL PRACTITIONER PREPARATION PROGRAMS

281—79.1(256) General statement. Programs of practitioner and administrator preparation leading to licensure in Iowa are subject to approval by the state board of education, as provided in Iowa Code

chapter 256. All programs having accreditation on August 31, 2001, are presumed accredited unless or until the state board takes formal action to remove accreditation.

281—79.2(256) Definitions. For purposes of clarity, the following definitions are used throughout the chapter:

“Administrator candidates” means individuals who are enrolled in practitioner preparation programs leading to administrator licensure.

“Administrator preparation programs” means the programs of practitioner preparation leading to licensure of administrators.

“Area education agency” or *“AEA”* means a regional service agency that provides school improvement services for students, families, teachers, administrators and the community.

“BOEE” means the board of educational examiners, the board responsible for establishing licensure requirements and issuing licenses.

“Candidates” means individuals who are preparing to become educational practitioners through a practitioner preparation program.

“Clinical experiences” means a candidate’s direct experiences in PK-12 schools. “Clinical experiences” includes field experiences and student teaching or internships.

“College/university supervisors” means qualified employees or individuals contracted by the college or university offering educator preparation who provide guidance and supervision to candidates during the candidates’ clinical experiences in the schools.

“Cooperating administrators” means school administrators who provide guidance and supervision to administrator candidates during the candidates’ clinical experiences in the schools.

“Cooperating teachers” means appropriately licensed classroom teachers of record who provide guidance and supervision to teacher candidates in the cooperating teachers’ classrooms during the candidates’ field experiences in the schools.

“Delivery model” means the form in which the educator preparation program is delivered to candidates and may include conventional campus-based, face-to-face models, distance learning models, off-campus models, programs delivered through consortia arrangements, and programs or elements delivered by contracted outside providers.

“Department” means the department of education.

“Director” means director of the department.

“Distance learning” means a formal education process in which the major portion of the instruction occurs when the learner and the instructor are not in the same place at the same time and occurs through virtually any media including printed or digital materials, a learning management system (LMS) or online communications.

“Distance learning program” means a program in which over half of the required courses in the program occur when the learner and the instructor are not in the same place at the same time (more information is contained in the definition of “distance learning”). These programs include those offered by the professional educational unit through a contract with an outside vendor or in a consortium arrangement with other higher education institutions, area education agencies, or other entities.

“Diverse groups” means one or more groups of individuals possessing certain traits or characteristics, including age, color, creed, national origin, race, religion, marital status, sex, sexual orientation, gender identity, physical attributes, physical or mental ability or disability, ancestry, political party preference, political belief, socioeconomic status or familial status.

“Educator preparation program” means practitioner preparation program.

“Facility” means a residential or other setting for a child in which the child receives an appropriate educational program. “Facility” includes a foster care facility as defined in Iowa Code section 237.1, a facility that provides residential treatment pursuant to Iowa Code chapter 125, an approved or licensed shelter care home as defined in Iowa Code section 232.2(34), an approved juvenile detention home as defined in Iowa Code section 232.2(32) and a psychiatric medical institution for children as defined in Iowa Code section 135H.1.

“Faculty” means the teaching staff of a university or college responsible for delivering instruction.

“Institution” means a college or university in Iowa offering practitioner preparation or an educational organization offering administrator preparation and seeking state board approval of its practitioner preparation program(s).

“Institutional accrediting agency” means an institutional accrediting agency recognized by the U.S. Department of Education. Agencies include regional and national accreditors. The department will maintain a web link to a list of currently approved accreditors on the department’s practitioner preparation web page.

“InTASC” means Interstate Teacher Assessment and Support Consortium, the source of national standards for teachers.

“Intern program” means the program for teacher intern preparation at colleges and universities leading to licensure of teacher interns.

“Iowa core” means a legislatively mandated state initiative that provides local school districts and nonpublic schools a guide to delivering instruction to students based on consistent, challenging and meaningful content.

“Iowa teaching standards” represents a set of knowledge and skills that reflect evidence of best practices regarding effective teaching as listed in rule 281—83.4(284). The standards serve as the basis for comprehensive evaluations of teachers and professional development plans.

“Leadership preparation program” means administrator preparation program.

“Mentor” means an experienced educator who provides guidance to a practitioner, administrator candidate or novice educator. For intern programs, “mentor” means an individual employed by a school district or area education agency as a classroom teacher, or a retired teacher, who holds a valid license issued under Iowa Code chapter 272. The individual must have a four-year record of successful teaching practice with at least two of the four years on a nonprobationary basis and demonstrate professional commitment to both the improvement of teaching and learning and the development of beginning teachers or teacher interns.

“National professional standards” means standards developed by nationally recognized organizations that establish best practices for education.

“NELP standards” means the National Educational Leadership Preparation standards for administrator preparation.

“Novice” means an individual in an educational position who has no previous experience in the role of that position or who is newly licensed by the board of educational examiners.

“Off-campus program” means a program offered by a unit on sites other than the main campus. Off-campus programs may be offered in the same state, in other states, or in countries other than the United States.

“Practitioner” means a teacher, administrator or other school personnel holding a license issued by the BOEE.

“Practitioner candidates” means individuals who are enrolled in practitioner preparation programs leading to licensure as teachers, as administrators or as other professional school personnel in professions that require a license issued by the board of educational examiners.

“Practitioner preparation programs” means the programs of practitioner preparation leading to licensure of teachers, administrators and other professional school personnel.

“Program” means a specific field of specialization leading to a specific endorsement.

“School district” means a school corporation as defined in Iowa Code chapter 290. A school district is also referred to as a “local education agency” or “LEA.”

“State board” means Iowa state board of education.

“Students” means PK-12 pupils.

“Teacher candidate” means an individual who is enrolled in a practitioner preparation program leading to teacher licensure.

“Teacher intern candidate” means an individual who is enrolled in a teacher intern preparation program leading to teacher intern licensure and who has not yet begun employment as an intern.

“Teacher intern preparation program” means the program for teacher intern preparation at colleges and universities leading to licensure of teacher interns.

“*Unit*” means the organizational entity within an institution with the responsibility of administering and delivering all practitioner preparation programs.

281—79.3(256) Institutions affected. In order to attain the authority to recommend candidates for Iowa licensure, colleges and universities offering practitioner preparation programs in Iowa, as well as other Iowa educational organizations engaged in the preparation of school administrators, teacher interns and holders of other school professional licensure, will meet the standards contained in this chapter to gain or maintain state board approval of their programs.

281—79.4(256) Criteria for practitioner preparation programs. Each institution seeking approval of its practitioner preparation programs by the state board, including those programs offered by distance learning delivery models or at off-campus locations, must be accredited by an institutional accrediting agency recognized by the U.S. Department of Education and file evidence of the extent to which each program meets the standards contained in this chapter by means of a written self-evaluation report and an evaluation conducted by the department. The institution will demonstrate such evidence by means of a template developed by the department and through a site visit conducted by the department. After the state board has approved the practitioner preparation programs of an institution, students who complete the programs and are recommended by the authorized official of that institution will be issued the appropriate license and endorsement(s).

281—79.5(256) Approval of programs.

79.5(1) Approval of institutions’ practitioner preparation programs by the state board will be based on the recommendation of the director after study of the factual and evaluative evidence on record about each program in terms of the standards contained in this chapter.

79.5(2) Approval, if granted, is for a term of seven years; however, approval for a lesser term may be granted by the state board if it determines conditions so warrant.

79.5(3) If approval is not granted, the applying institution will be advised concerning the areas in which improvement or changes appear to be essential for approval. In this case, the institution will be given the opportunity to present factual information concerning its programs at a regularly scheduled meeting of the state board, not beyond three months of the board’s initial decision. Following a minimum of six months after the board’s decision to deny approval, the institution may reapply when it is ready to show what actions have been taken to address the areas of suggested improvement.

79.5(4) Programs may be granted conditional approval upon review of appropriate documentation. In such an instance, the program will receive a full review after one year or, in the case of a new program, at the point at which candidates demonstrate mastery of standards for licensure.

281—79.6(256) Visiting teams. Upon application or reapplication for approval, a review team will visit each institution for evaluation of its practitioner preparation program(s). When an institution offers off-campus practitioner preparation programs, the team may elect to include visits to some or all of the sites of the off-campus programs. The membership of the team is selected by the department with the concurrence of the institution being visited. The team may include faculty members of other practitioner preparation institutions; personnel from elementary and secondary schools, to include licensed practitioners; personnel of the state department of education; personnel of the board of educational examiners; and representatives from professional education organizations. Each team member should have appropriate competencies, background and experiences to enable the member to contribute to the evaluation visit. The expenses for the review team will be borne by the institution.

281—79.7(256) Periodic reports. Upon request of the department, approved programs will make periodic reports that provide basic information necessary to keep records of each practitioner preparation program up to date and to carry out research studies relating to practitioner preparation. The department may request that information be disaggregated by attendance center or delivery model or both.

281—79.8(256) Reevaluation of practitioner preparation programs. Every seven years or at any time deemed necessary by the director, an institution will conduct a self-evaluation and file a written institutional report with evidence of its practitioner preparation programs to be followed by a review team visit. Any action for continued approval or rescission of approval will be approved by the state board.

281—79.9(256) Approval of program changes. Upon application by an institution, the director is authorized to approve minor additions to, or changes within, the curricula of an institution's approved practitioner preparation program. When an institution proposes a revision that exceeds the primary scope of its programs, the revisions become operative only after having been approved by the state board. Approval of any institution's application for adding the dyslexia specialist endorsement must include approval by the Iowa reading research center.

DIVISION II
SPECIFIC EDUCATION STANDARDS APPLICABLE TO ALL PRACTITIONER PREPARATION PROGRAMS

281—79.10(256) Governance and resources standard. Governance and resources adequately support the preparation of practitioner candidates to meet professional, state and institutional standards in accordance with the following provisions.

79.10(1) The professional education unit has primary responsibility for all educator preparation programs offered by the institution through any delivery model.

79.10(2) The unit's conceptual framework and governance structure establishes the shared vision for the unit and provides the foundation for all components of the educator preparation programs.

79.10(3) The unit demonstrates alignment of unit and program standards with current national professional standards for educator preparation; teacher preparation aligns with InTASC standards; and each unit defines unit and program standards and embeds them in courses and field experiences.

79.10(4) The unit provides evidence of ongoing collaboration with appropriate stakeholders. There is an active advisory committee that is involved semiannually in providing input for program evaluation and continuous improvement.

79.10(5) When a unit is a part of a college or university, there is ongoing collaboration with the appropriate departments of the institution, especially regarding content knowledge.

79.10(6) The institution provides resources and support necessary for the delivery of quality preparation program(s). The resources and support include the following:

- a.* Financial resources; facilities; appropriate educational materials, equipment and library services; and commitment to a work climate, policies and faculty/staff assignments which promote/support best practices in teaching, scholarship and service;
- b.* Resources to support professional development opportunities;
- c.* Resources to support technological and instructional needs to enhance candidate learning;
- d.* Resources to support quality clinical experiences for all educator candidates;
- e.* Commitment of sufficient administrative, clerical and technical staff; and
- f.* Equitable resources and access for all program components, regardless of delivery model or location.

281—79.11(256) Diversity standard. The environment and experiences provided for practitioner candidates support candidate growth in knowledge, skills and dispositions to help all students learn in accordance with the following provision: The institution's and unit's plans, policies and practices document their efforts in establishing a supportive environment and maintaining a diverse faculty and student body.

281—79.12(256) Faculty standard. Faculty qualifications and performance will facilitate the professional development of practitioner candidates in accordance with the following provisions.

79.12(1) The unit defines and communicates the roles and requirements for faculty members by position. The unit describes how roles and requirements are determined.

79.12(2) The unit documents the alignment of teaching duties for each faculty member with that member's preparation, knowledge, experiences and skills.

79.12(3) The unit holds faculty members accountable for teaching prowess. This accountability includes evaluation and indicators for continuous improvement.

79.12(4) The unit holds faculty members accountable for professional growth to meet the academic needs of the unit.

79.12(5) Faculty members collaborate with:

- a. Colleagues in the unit;
- b. Colleagues across the institution;
- c. Colleagues in PK-12 schools/agencies/learning settings. Faculty members engage in professional education and maintain ongoing involvement in activities in preschool and elementary, middle or secondary schools. For faculty members engaged in teacher preparation, activities include at least 40 hours of teaching or co-teaching at the appropriate grade level(s) during a period not exceeding five years in duration.

281—79.13(256) Assessment system and unit evaluation standard. The unit's system of assessment will appropriately monitor individual candidate performance and use that data in concert with other information to evaluate and improve the unit and its programs in accordance with the following provisions.

79.13(1) The unit has a clearly defined, cohesive system of assessment that includes both individual candidate assessment and comprehensive unit assessment.

79.13(2) The assessment system is based on unit standards.

79.13(3) The unit tracks and communicates the following criteria for candidates:

- a. Entrance into the program.
- b. Continuation in the program with clearly defined checkpoints/gates.
- c. Admission to clinical experiences (for teacher education, this includes specific criteria for admission to student teaching).
- d. Program completion.

79.13(4) Individual candidate assessment includes all of the following:

- a. Measures used for candidate assessment are fair, reliable and valid.
- b. Candidates are assessed on their demonstration/attainment of unit standards.
- c. Multiple measures are used for assessment of the candidate on each unit standard.
- d. Candidates are assessed on unit standards at different developmental stages.
- e. Candidates are provided with formative feedback and opportunities to utilize the feedback to reflect upon and guide their development and growth toward attainment of unit standards.

79.13(5) The unit will document regular reviews, evaluation and revision to the system of assessment.

a. The collection, aggregation, analysis and evaluation of assessment data described in this subrule will take place on a regular cycle.

b. Comprehensive unit assessment includes all of the following:

(1) Individual candidate assessment data on unit standards, as described in subrule 79.13(4), are analyzed.

(2) The aggregated assessment data are analyzed to evaluate programs.

(3) Findings from the evaluation of aggregated assessment data are shared with stakeholders and utilized for program improvement decisions.

79.13(6) The unit shall conduct a survey of graduates and their employers to ensure that the graduates are well prepared and use the data for program improvement.

DIVISION III
SPECIFIC EDUCATION STANDARDS APPLICABLE ONLY TO INITIAL PRACTITIONER PREPARATION PROGRAMS FOR
TEACHER CANDIDATES

281—79.14(256) Teacher preparation clinical practice standard. The unit and its school partners shall provide field experiences and student teaching opportunities that assist candidates in becoming successful teachers in accordance with the following provisions.

79.14(1) The unit ensures that clinical experiences occurring in all locations are well sequenced, supervised by appropriately qualified personnel, monitored by the unit and integrated into the unit standards. These expectations are shared with teacher candidates, college/university supervisors and cooperating teachers.

79.14(2) Cooperating teachers and college/university supervisors share responsibility for evaluating the teacher candidates' achievement of unit standards. Clinical experiences are structured to have multiple performance-based assessments at key points within the program.

79.14(3) Teacher candidates experience clinical practices in multiple settings that include diverse groups and diverse learning needs.

79.14(4) Teacher candidates admitted to a teacher preparation program must complete a minimum of 80 hours of pre-student teaching field experiences, with at least 10 hours occurring prior to acceptance into the program.

79.14(5) Pre-student teaching field experiences support learning in context and include all of the following:

a. High-quality instructional programs for PK-12 students in a state-approved school or educational facility.

b. Opportunities for teacher candidates to observe and be observed by others and to engage in discussion and reflection on clinical practice, planning, instruction and assessment.

79.14(6) The unit is responsible for ensuring that the student teaching experience for initial licensure:

a. Includes a full-time experience for a minimum of 14 weeks in duration during the teacher candidate's final year of the teacher preparation program.

b. Takes place in the classroom of a cooperating teacher who is appropriately licensed in the subject area and grade-level endorsement for which the teacher candidate is being prepared.

c. Includes prescribed minimum expectations and responsibilities, including ethical behavior, for the teacher candidate.

d. Involves the teacher candidate in communication and interaction with parents or guardians of students in the teacher candidate's classroom.

e. Requires the teacher candidate to become knowledgeable about the Iowa teaching standards and to experience a mock evaluation, which shall not be used as an assessment tool by the unit, performed by the cooperating teacher or a person who holds an Iowa evaluator license.

f. Requires collaborative involvement of the teacher candidate, cooperating teacher and college/university supervisor in candidate growth. This collaborative involvement includes biweekly supervisor observations with feedback.

g. Requires the teacher candidate to bear primary responsibility for planning, instruction and assessment within the classroom for a minimum of two weeks (ten school days).

h. Includes a written evaluation procedure, after which the completed evaluation form is included in the teacher candidate's permanent record.

79.14(7) The unit annually offers one or more workshops for cooperating teachers to define the objectives of the student teaching experience, review the responsibilities of the cooperating teacher and provide the cooperating teacher other information and assistance the unit deems necessary. The duration of the workshop will be equivalent to one day.

79.14(8) The institution enters into a written contract with the cooperating school or district providing clinical experiences, including field experiences and student teaching.

281—79.15(256) Teacher candidate knowledge, skills and dispositions standard. Teacher candidates are to demonstrate the content, pedagogical and professional knowledge, skills and dispositions necessary to help all students learn in accordance with the following provisions.

79.15(1) Each teacher candidate demonstrates the acquisition of a core of liberal arts knowledge including English composition, mathematics, natural sciences, social sciences and humanities.

79.15(2) Each teacher candidate receives dedicated coursework and demonstrates competency related to the study of human relations, cultural competency and diverse learners, such that the candidate is prepared to work with students from diverse groups, as defined in rule 281—79.2(256). The unit shall provide evidence that teacher candidates develop the ability to identify and meet the needs of all learners, including:

- a. Students from diverse ethnic, racial and socioeconomic backgrounds.
- b. Students with disabilities. This will include preparation in developing and implementing individualized education programs and behavioral intervention plans, preparation for educating individuals in the least restrictive environment and identifying that environment, and strategies that address difficult and violent student behavior and improve academic engagement and achievement.
- c. Students who are struggling with literacy, including those with dyslexia.
- d. Students who are gifted and talented.
- e. English learners.
- f. Students who may be at risk of not succeeding in school. This preparation will include classroom management addressing high-risk behaviors including behaviors related to substance use disorder.

79.15(3) Each teacher candidate demonstrates competency in literacy, to include reading theory, knowledge, strategies and approaches; and integrating literacy instruction into content areas. The teacher candidate demonstrates competency in making appropriate accommodations for students who struggle with literacy. Demonstrated competency shall address the needs of all students, including students with disabilities; students who are at risk of academic failure; students who have been identified as gifted and talented or English learners; and students with dyslexia, whether or not such students have been identified as children requiring special education under Iowa Code chapter 256B. Literacy instruction shall include evidence-based best practices, determined by research, including those practices identified by the Iowa reading research center.

79.15(4) Each teacher candidate demonstrates competency in all of the following professional core curricula:

a. *Learner development.* The teacher understands how learners grow and develop, recognizing that patterns of learning and development vary individually within and across the cognitive, linguistic, social, emotional and physical areas, and designs and implements developmentally appropriate and challenging learning experiences.

b. *Learning differences.* The teacher uses understanding of individual differences and diverse cultures and communities to ensure inclusive learning environments that enable each learner to meet high standards.

c. *Learning environments.* The teacher works with others to create environments that support individual and collaborative learning, and that encourage positive social interaction, active engagement in learning and self-motivation.

d. *Content knowledge.* The teacher understands the central concepts, tools of inquiry and structures of the discipline(s) being taught and creates learning experiences directly related to the Iowa core that make the discipline accessible and meaningful for learners to ensure mastery of the content.

e. *Application of content.* The teacher understands how to connect concepts and use differing perspectives to engage learners in critical thinking, creativity and collaborative problem solving related to authentic local and global issues.

f. *Assessment.* The teacher understands and uses multiple methods of assessment to engage learners in their own growth, to monitor learner progress and to guide the teacher's and learners' decision making.

g. Planning for instruction. The teacher plans instruction that supports every student in meeting rigorous learning goals by drawing upon knowledge of content areas, curriculum, cross-disciplinary skills and pedagogy, as well as knowledge of learners and the community context.

h. Instructional strategies. The teacher understands and uses a variety of instructional strategies to encourage learners to develop deep understanding of content areas and their connections, and to build skills to apply knowledge in meaningful ways.

i. Professional learning and ethical practice. The teacher engages in ongoing professional learning and uses evidence to continually evaluate the teacher's practice, particularly the effects of the teacher's choices and actions on others (learners, families, other professionals and the community) and adapts practice to meet the needs of each learner.

j. Leadership and collaboration. The teacher seeks appropriate leadership roles and opportunities to take responsibility for student learning, to collaborate with learners, families, colleagues, other school professionals and community members to ensure learner growth, and to advance the profession.

k. Technology. The teacher candidate effectively integrates technology into instruction to support student learning.

l. Methods of teaching. The teacher candidate understands and uses methods of teaching that have an emphasis on the subject and grade-level endorsement desired.

79.15(5) Each teacher candidate must complete a 30-semester-hour teaching major that minimally includes the requirements for at least one of the basic endorsement areas, special education teaching endorsements or secondary level occupational endorsements. Additionally, each elementary teacher candidate must also complete a field of specialization in a single discipline or a formal interdisciplinary program of at least 12 semester hours. Each teacher candidate is to meet all requirements established by the board of educational examiners for any endorsement for which the teacher candidate is recommended.

DIVISION IV
SPECIFIC EDUCATION STANDARDS APPLICABLE ONLY TO ADMINISTRATOR PREPARATION PROGRAMS

281—79.16(256) Administrator preparation clinical practice standard. The unit and its school partners shall provide clinical experiences that assist candidates in becoming successful school administrators in accordance with the following provisions.

79.16(1) The unit ensures that:

a. Principal candidates successfully complete clinical experiences that provide candidates with opportunities to synthesize and apply the knowledge and skills identified in subrule 79.17(2) in ways that approximate the full range of responsibilities of building-level leaders and enable them to promote the current and future success and well-being of each student and adult in their school.

b. Superintendent candidates successfully complete clinical experiences that provide candidates opportunities to synthesize and apply the knowledge and skills identified in subrule 79.17(3) in ways that approximate the full range of responsibilities of district-level leaders and enable them to promote the current and future success and well-being of each student and adult in their district.

79.16(2) The unit ensures that clinical experiences occurring in all locations are coherent, authentic, sustained and purposeful opportunities that are monitored by the unit. These expectations are shared with candidates, supervisors and cooperating administrators.

79.16(3) Cooperating administrators and college/university supervisors share responsibility for evaluating the candidate's achievement of unit standards. Clinical experiences are structured to have multiple performance-based assessments at key points within the program to demonstrate candidates' attainment of unit standards.

79.16(4) Clinical experiences include all of the following criteria:

a. A minimum of 400 hours during the candidate's preparation program.

b. Take place with appropriately licensed cooperating administrators in state-approved schools or educational facilities.

c. Take place in multiple high-quality educational settings that include diverse populations and students of different age groups.

d. Include documented expectations and responsibilities for cooperating administrators, school districts, accredited nonpublic schools or AEAs and for higher education supervising faculty members.

e. Provide opportunities for candidates to apply and use the knowledge, skills and dispositions identified in subrules 79.17(2) and 79.17(3).

79.16(5) The institution annually delivers one or more professional development opportunities for cooperating administrators to define the objectives of the field experience, review the responsibilities of the cooperating administrator, build skills in coaching and mentoring and provide the cooperating administrator other information and assistance the institution deems necessary.

79.16(6) The institution will enter into a written contract with the cooperating school districts that provide field experiences for administrator candidates.

281—79.17(256) Administrator knowledge, skills and dispositions standard. Administrator candidates will demonstrate the content, pedagogical and professional knowledge, skills and dispositions necessary to help all students learn in accordance with the following provisions.

79.17(1) Each educational administrator program will define program standards (aligned with current NELP standards) and embed them in coursework and clinical experiences at a level appropriate for a novice administrator.

79.17(2) Each principal candidate demonstrates the knowledge, skills and dispositions necessary to:

a. Collaboratively lead, design and implement a school mission, vision and process for continuous improvement that reflects a core set of values and priorities that include data use, technology, equity, diversity, digital citizenship and community. (Mission, Vision and Improvement)

b. Advocate for ethical decisions and cultivate and enact professional norms. (Ethics and Professional Norms)

c. Develop and maintain a supportive, equitable, culturally responsive and inclusive school culture. (Equity, Inclusiveness and Cultural Responsiveness)

d. Evaluate, develop and implement coherent systems of curriculum, instruction, data systems, supports including Iowa core implementation and assessment. (Learning and Instruction)

e. Strengthen student learning, support school improvement and advocate for the needs of the school and community. (Community and External Leadership)

f. Improve management, communication, technology, school-level governance and operation systems to develop and improve data-informed and equitable school resource plans and to apply laws, policies and regulations. (Operations and Management)

g. Build the school's professional capacity, engage staff in the development of a collaborative professional culture and improve systems of staff supervision, evaluation, support and professional learning. (Building Professional Capacity)

79.17(3) Each superintendent candidate demonstrates competency in all of the following professional core curricula:

a. Collaboratively lead, design and implement a district mission, vision and process for continuous improvement that reflects a core set of values and priorities that include data use, technology, values, equity, diversity, digital citizenship and community. (District Mission, Vision and Improvement)

b. Advocate for ethical decisions and cultivate professional norms and culture. (Ethics and Professional Norms)

c. Develop and maintain a supportive, equitable, culturally responsive and inclusive district culture. (Equity, Inclusiveness and Cultural Responsiveness)

d. Evaluate, design, cultivate and implement coherent systems of curriculum, instruction, data systems, supports, assessment and instructional leadership. (Learning and Instruction)

e. Understand and engage families, communities and other constituents in the work of schools and the district and to advocate for district, student and community needs. (Community and External Leadership)

f. Develop, monitor, evaluate and manage data-informed and equitable district systems for operations, resources, technology and human capital management. (Operations and Management)

g. Cultivate relationships, lead collaborative decision making and governance and represent and advocate for district needs in broader policy conversations. (Policy, Governance and Advocacy)

79.17(4) Each new administrator candidate successfully completes the appropriate evaluator training provided by a state-approved evaluator trainer.

79.17(5) Each administrator candidate demonstrates, within specific coursework and clinical experiences, the ability to develop and maintain a supportive, equitable, culturally responsive and inclusive district culture with students and staff from diverse groups, as defined in rule 281—79.2(256). The unit shall provide evidence that administrator candidates develop the ability to meet the needs of all learners, as well as ensuring teachers meet the needs of diverse learners, including:

- a.* Students from diverse ethnic, racial and socioeconomic backgrounds.
- b.* Students with disabilities. This will include preparation in developing and implementing individualized education programs and behavioral intervention plans, preparation for educating individuals in the least restrictive environment and identifying that environment, and strategies that address difficult and violent student behavior and improve academic engagement and achievement.
- c.* Students who are struggling with literacy, including those with dyslexia.
- d.* Students who are gifted and talented.
- e.* English learners.
- f.* Students who may be at risk of not succeeding in school. This preparation will include classroom management addressing high-risk behaviors including behaviors related to substance use disorder.

DIVISION V

SPECIFIC EDUCATION STANDARDS APPLICABLE ONLY TO PRACTITIONER PREPARATION PROGRAMS OTHER THAN
TEACHER OR ADMINISTRATOR PREPARATION PROGRAMS

281—79.18(256) Purpose. This division addresses preparation of an individual seeking a license based on school-centered preparation for employment as one of the following: school guidance counselor, school audiologist, school psychologist, school social worker, speech-language pathologist or supervisor of special education (282—Chapter 27 contains more information regarding licenses for service other than as a teacher.)

281—79.19(256) Clinical practice standard. The unit and its school, AEA and facility partners will provide clinical experiences that assist candidates in becoming successful practitioners in accordance with the following provisions.

79.19(1) The unit ensures that clinical experiences occurring in all locations are well sequenced, purposeful, supervised by appropriately qualified personnel, monitored by the unit and integrated into unit standards. These expectations are shared with candidates, supervisors and cooperating professional educators.

79.19(2) Cooperating professional educators and college/university supervisors share responsibility for evaluating the candidate's achievement of unit standards. Clinical experiences are structured to have multiple performance-based assessments at key points within the program to demonstrate the candidate's attainment of unit standards.

79.19(3) Clinical experiences include all of the following criteria:

- a.* Learning that takes place in the context of providing high-quality instructional programs for students in a state-approved school, agency or educational facility;
- b.* Take place in educational settings that include diverse populations and students of different age groups;
- c.* Provide opportunities for candidates to observe and be observed by others and to engage in discussion and reflection on clinical practice;
- d.* Include minimum expectations and responsibilities for cooperating professional educators, school districts, accredited nonpublic schools or AEAs and for higher education supervising faculty members;

e. Include prescribed minimum expectations for involvement of candidates in relevant responsibilities directed toward the work for which they are preparing;

f. Involve candidates in communication and interaction with parents or guardians, community members, faculty and staff and cooperating professional educators in the school.

79.19(4) The institution annually delivers one or more workshop(s) for cooperating professional educators to define the objectives of the field experience, review the responsibilities of the cooperating professional educators, build skills in coaching and mentoring and provide the cooperating professional educators other information and assistance the institution deems necessary. The workshop(s) incorporate feedback from participants and utilize appropriate delivery strategies.

79.19(5) The institution shall enter into a written contract with the cooperating school districts that provide field experiences for candidates.

281—79.20(256) Candidate knowledge, skills and dispositions standard. Candidates will demonstrate the content knowledge and the pedagogical and professional knowledge, skills and dispositions necessary to help all students learn in accordance with the following provisions.

79.20(1) Each professional educator program will define program standards (aligned with current national standards) and embed them in coursework and clinical experiences at a level appropriate for a novice professional educator.

79.20(2) Each candidate demonstrates, within specific coursework and clinical experiences related to the study of human relations, cultural competency and diverse learners, that the candidate is prepared to work with students from diverse groups, as defined in rule 281—79.2(256). The unit shall provide evidence that candidates develop the ability to meet the needs of all learners, including:

- a.* Students from diverse ethnic, racial and socioeconomic backgrounds.
- b.* Students with disabilities. This will include preparation in developing and implementing individualized education programs and behavioral intervention plans, preparation for educating individuals in the least restrictive environment and identifying that environment, and strategies that address difficult and violent student behavior and improve academic engagement and achievement.
- c.* Students who are struggling with literacy, including those with dyslexia.
- d.* Students who are gifted and talented.
- e.* English learners.
- f.* Students who may be at risk of not succeeding in school. This preparation will include classroom management addressing high-risk behaviors including behaviors related to substance use disorder.

DIVISION VI
SPECIFIC EDUCATION STANDARDS APPLICABLE ONLY TO TEACHER INTERN PRACTITIONER PREPARATION
PROGRAMS

281—79.21(256) General. Institutions interested in offering a teacher intern license will provide evidence of compliance with standards listed in this division, the faculty standards in rule 281—79.12(256) and the assessment standards in rule 281—79.13(256).

281—79.22(256) Intern license governance and resources standard. Governance and resources adequately support the preparation of teacher intern candidates to meet professional, state and institutional standards. As a component of the program, the institution will work collaboratively with the local school district(s) or AEA.

79.22(1) The institution will have a clearly understandable governance structure that serves as a basis to provide guidance and support for the teacher intern preparation program.

79.22(2) The institution's responsibilities include:

- a.* Establishing a teacher intern leadership team that will provide oversight of the program; and
- b.* Providing appropriate resources to ensure a quality program.

79.22(3) The leadership team's responsibilities include:

- a. Establishing the conceptual framework to provide the foundation for all components of the program;
- b. Screening and selecting teacher intern candidates;
- c. Establishing an advisory team to provide guidance to the teacher intern preparation program annually for program evaluation and continuous improvement. The advisory team includes institutional personnel, including program faculty, and representatives from LEA 5-12 grade level teachers and administrators; and
- d. Using program evaluation and continuous improvement to review and monitor the program goals, the program of study, the support system and the assessment system.

79.22(4) The teacher intern preparation program and LEAs will work collaboratively to provide opportunities for teacher intern candidates to observe and be observed by others and to engage in discussion and reflection on clinical practice.

79.22(5) The LEA will provide the following:

- a. An offer of employment to a teacher intern candidate in the program in one of the endorsements identified on the department's website at www.educateiowa.gov/pk-12/educator-quality/practitioner-preparation;
- b. A mentoring and induction program with a district-assigned mentor; and
- c. An assurance that the LEA will not overload the intern with extracurricular duties.

79.22(6) The institution provides resources and support necessary for the delivery of a quality teacher intern preparation program. The resources and support include the following:

- a. Financial resources; facilities; and appropriate educational materials, equipment and library services;
- b. Commitment to a work climate; policies; and faculty/staff assignments that promote/support best practices in teaching, scholarship and service;
- c. Equitable resources and access for all program components regardless of delivery model or location;
- d. Technological support for instructional needs to enhance candidate learning with instructional technology integrated into classroom experiences;
- e. Quality clinical experiences and evaluations for all educator candidates; and
- f. Sufficient faculty and administrative, clerical and technical staff.

79.22(7) The program has a clearly articulated process regarding candidate and intern performance, aligned with the institutional policy, for decisions impacting progress through the program. Program and school district policies for removal and replacement of interns from their internship assignments are clearly communicated to all candidates, school administrators and faculty.

79.22(8) Candidate assessment for a teacher intern program includes clear criteria for the following:

- a. Acceptance requirements include:
 - (1) Completion of a baccalaureate degree from a regionally accredited institution, meeting program-established required grade point criteria for the baccalaureate degree and content area;
 - (2) Completion of coursework that meets the state minimum requirements for at least one of the BOEE's secondary endorsement areas, unless the endorsement area requirements are embedded in the teacher intern professional core; and
 - (3) Screening designed to generate information about the prospective candidate's attributes identified as essential for candidates in the program.
- b. Continuation in the program with clearly defined checkpoints/gates, to include verification of an offer of employment as an intern from a school or district administrator.
- c. Program completion and subsequent recommendation by the authorized official of the program for an initial teaching license, to include recommendation for an intern license for one or more of the endorsements identified on the department's teacher preparation website at educateiowa.gov/pk-12/educator-quality/practitioner-preparation.

281—79.23(256) Intern license faculty standard. Intern program faculty standards are aligned and may be met through rule 281—79.12(256).

281—79.24(256) Intern license program of study standard. A program's required coursework will include a minimum of 28 semester hours or equivalent designed to ensure that teacher intern candidates develop the dispositions, knowledge, and performance expectations of the InTASC standards embedded at a level appropriate for a beginning teacher.

79.24(1) Teacher intern candidates will develop the dispositions, knowledge and performance expectations of the Iowa teaching standards (aligned with InTASC standards) and the BOEE's Code of Professional Conduct and Ethics at a level appropriate for a beginning teacher.

79.24(2) All components of the program of study may only be initiated and completed after the candidate has completed a baccalaureate degree.

79.24(3) Coursework and competencies to be completed prior to the beginning of the candidate's initial employment as an intern include, but are not limited to:

a. Understands how learners grow and develop and implements developmentally appropriate and challenging learning experiences. This aligns with InTASC standard 1.

b. Demonstrates competence in content knowledge appropriate to the teaching position. This aligns with Iowa teaching standard 2 (281—subrule 83.4(2)) and with InTASC standards 4 and 5.

c. Demonstrates competence in classroom management. This aligns with Iowa teaching standard 6 (281—subrule 83.4(6)) and with InTASC standard 3.

d. Demonstrates competence in planning and preparing for instruction. This aligns with Iowa teaching standard 3 (281—subrule 83.4(3)) and with InTASC standard 7.

e. Uses a variety of methods to monitor student learning. This aligns with Iowa teaching standard 5 (281—subrule 83.4(5)) and InTASC standard 6.

79.24(4) Additional coursework and competencies to be completed prior to the recommendation for an initial teaching license includes:

a. Uses strategies to deliver instruction that meets the multiple learning needs of students. This aligns with Iowa teaching standard 4 (281—subrule 83.4(4)) and with InTASC standards 2 and 8.

b. Engages in professional growth. This aligns with Iowa teaching standard 7 (281—subrule 83.4(7)) and with InTASC standard 9.

c. Contributes to efforts to achieve district and building goals. This aligns with Iowa teaching standard 8 (281—subrule 83.4(8)) and with InTASC standard 10.

d. Demonstrates ability to enhance academic performance and support for implementation of the school district student achievement goals. This aligns with Iowa teaching standard 1 (281—subrule 83.4(1)).

79.24(5) Each teacher intern candidate demonstrates knowledge about literacy and receives preparation in literacy. Each candidate also develops and demonstrates the ability to integrate reading strategies into content area coursework.

79.24(6) Each teacher intern candidate effectively demonstrates the ability to integrate technology into instruction to support student learning.

79.24(7) Each teacher intern candidate receives dedicated coursework related to the study of human relations, cultural competency and diverse learners, such that the candidate is prepared to work with students from diverse groups, as defined in rule 281—79.2(256). The unit shall provide evidence that teacher intern candidates develop the ability to meet the needs of all learners, including:

a. Students from diverse ethnic, racial and socioeconomic backgrounds;

b. Students with disabilities. This will include preparation in developing and implementing individualized education programs and behavioral intervention plans, preparation for educating individuals in the least restrictive environment and identifying that environment, and strategies that address difficult and violent student behavior and improve academic engagement and achievement;

c. Students who are gifted and talented;

d. English learners; and

e. Students who may be at risk of not succeeding in school. This preparation will include classroom management addressing high-risk behaviors including behaviors related to substance use disorder.

79.24(8) Each teacher intern candidate demonstrates knowledge and application of the Iowa core to the teaching and learning process.

79.24(9) Each teacher intern candidate will be engaged in field experiences that include opportunities for both observation of exemplary instruction and involvement in co-planning and co-teaching. Each teacher intern candidate will complete at least 50 hours of field experience prior to the candidate's initial employment as an intern. The institution enters into a written contract with the cooperating school or district providing preinternship field experiences.

79.24(10) The teacher intern preparation program will provide a teacher intern seminar during the teacher internship year to support and extend coursework from the teacher intern content and facilitate teacher intern reflection.

79.24(11) In accordance with 281—Chapter 83, all interns will be provided with a district-level mentor in addition to the program supervisor. The purpose of this district-level mentor is to provide coaching feedback dependent on the intern's classroom experience. This district-level mentor shall not serve in an evaluative role. The district-level mentor shall complete specialized training for serving as a mentor as required in rule 281—83.3(284). The program will coordinate support between the teacher intern candidate's local district mentor and program supervisor.

79.24(12) The program shall provide an orientation for teacher intern candidates. The orientation will include, but not be limited to:

- a.* Program goals and expectations;
- b.* Licensure and ethics provisions;
- c.* Support provided by the program; and
- d.* Support provided by the LEA or AEA.

79.24(13) Teacher intern faculty will provide teacher intern candidates with academic advising, feedback about their performance throughout the program and consultation opportunities.

79.24(14) Teacher intern faculty will provide regular supervision in teacher intern candidates' classrooms with additional supervision and assistance provided as needed.

281—79.25(256) Intern license assessment standard. Intern program assessment standards are met through rule 281—79.13(256), except for subrule 79.13(4), which is not applicable.

These rules are intended to implement Iowa Code sections 256.7 and 256.16.

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 281—Chapter 80
“Standards for Paraeducator Preparation Programs”

Iowa Code section authorizing rulemaking: 256.7(22)
State or federal law(s) implemented by the rulemaking: Iowa Code section 256.7(22)

Public Hearing

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

September 12, 2023
9 to 10 a.m.

ICN Room, Second Floor
Grimes State Office Building
Des Moines, Iowa

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis. Written comments in response to this Regulatory Analysis must be received by the Department of Education no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Thomas A. Mayes
Department of Education
Grimes State Office Building, Second Floor
400 East 14th Street
Des Moines, Iowa 50319-0146
Phone: 515.281.8661
Email: thomas.mayes@iowa.gov

Purpose and Summary

This proposed rulemaking implements a program to support Iowans who wish to become certified paraeducators and the institutions that prepare them.

Analysis of Impact

1. Persons affected by the proposed rulemaking:
 - Classes of persons that will bear the costs of the proposed rulemaking:
Education institutions will bear the costs.
 - Classes of persons that will benefit from the proposed rulemaking:
Future Iowa paraeducators, the students they will serve, and their present and future employers will benefit from the proposed rulemaking.
2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:
 - Quantitative description of impact:
Chapter 80 has seen increased usage as practitioner preparation programs seek to offer paraeducator training to meet demand. The Department proposes retaining standards that have the highest relationship to improving student success.
 - Qualitative description of impact:
The Department discerns no qualitative impact from the proposed chapter.
3. Costs to the State:
 - Implementation and enforcement costs borne by the agency or any other agency:

The Department bears the costs of enforcement through its general appropriation.

- Anticipated effect on state revenues:

There is no anticipated effect on state revenues.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

The existing chapter contains many instances of overly restrictive language and language that duplicates statutory text verbatim. The proposed rulemaking eliminates that language. The Department proposes retaining standards that have the highest relationship to improving student success.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

No less costly or less intrusive methods exist. The Department has attempted to streamline the rules that it is required to adopt.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:

No alternative methods were considered by the Department. The Department is required to adopt rules to implement this program.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking:

Rulemaking is required.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

There is no discernable impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 281—Chapter 80 and adopt the following **new** chapter in lieu thereof:

CHAPTER 80 STANDARDS FOR PARAEDUCATOR PREPARATION PROGRAMS

281—80.1(272) Definitions. The following definitions apply to this chapter:

“*Authorized official*” means an individual with the authority within the institution and the unit to monitor and ensure compliance with this chapter.

1. If the unit is within a community college, an institution of higher education under the state board of regents, or an accredited private institution of higher education, the official must maintain, oversee, and be responsible for the program within the unit.

2. If the unit is within an Iowa public school district or area education agency, the official must have one or more of the following credentials issued by the board of educational examiners: a teacher license (with the exception of a substitute teaching license), an administrator license, a professional services license, an elementary professional school counselor endorsement, a secondary professional school counselor endorsement, a school nurse endorsement, a special education support personnel authorization, or a statement of professional recognition. Other authorizations or certificates issued by the board of educational examiners do not satisfy the terms of this paragraph.

“Department” means the department of education.

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

“Diverse groups” means one or more groups of individuals possessing certain traits or characteristics, including but not limited to age, color, creed, national origin, race, religion, marital status, sex, sexual orientation, gender identity, physical attributes, physical or mental ability or disability, ancestry, political party preference, political belief, socioeconomic status, or familial status.

“Institution” means an Iowa public school district, area education agency, community college, institution of higher education under the state board of regents or an accredited private institution as defined in Iowa Code section 261.9(1) offering a paraeducator preparation program(s).

“Paraeducator candidate” means an individual who is enrolled in a paraeducator preparation program leading to certification as a generalist, a generalist with area(s) of concentration, or an advanced paraeducator.

“Paraeducator preparation program” means the program of paraeducator preparation leading to certification of paraeducators.

“State board” means Iowa state board of education.

“Unit” means the organizational entity within an institution with the responsibility of administering the paraeducator preparation program(s).

281—80.2(272) Institutions affected. All institutions engaged in preparation of paraeducators and seeking state board approval of the institutions’ paraeducator preparation program(s) shall meet the standards contained in this chapter.

281—80.3(272) Criteria for Iowa paraeducator preparation programs. Each institution seeking approval of its paraeducator preparation program(s) will submit to the state board evidence of the extent to which the program meets the standards contained in this chapter. After the state board has approved an institution’s paraeducator preparation program(s), students who complete the program(s) may be recommended by the authorized official of that institution for issuance of the appropriate certificate.

281—80.4(272) Application; approval of programs. Approval of paraeducator preparation programs by the state board will be based on the recommendation of the director after study of the factual and evaluative evidence of record about each program in terms of the standards contained in this chapter. Approval, if granted, will be for a term of seven years; however, approval for a shorter term may be granted by the state board if it determines conditions so warrant. If approval is not granted, the applicant institution will be advised concerning the areas in which improvement or changes appear to be essential for approval. In this case, the institution will be given the opportunity to present factual information concerning its programs at the next regularly scheduled meeting of the state board. The institution may also reapply at its discretion to provide evidence of the actions taken toward suggested improvement. Any application submitted under this rule is to be submitted by the authorized official.

281—80.5(272) Periodic reports. In addition to reports pursuant to this chapter, the department may ask institutions placed on the approved programs list to make periodic reports necessary to keep records of each paraeducator preparation program up to date, to provide information necessary to carry out research

studies relating to paraeducator preparation, and for any other purpose the department deems advisable. Any reports submitted under this rule are to be submitted by the authorized official.

281—80.6(272) Reevaluation of paraeducator preparation programs. Each paraeducator preparation program will be reviewed and reevaluated at least once every seven years, at a shorter interval specified pursuant to rule 281—80.4(272), or at any time deemed necessary by the director. Recommendations as to whether to grant continued approval are governed by rule 281—80.4(272).

281—80.7(272) Approval of program changes. Upon application by an institution, the director is authorized to approve minor additions to, or changes within, the institution's approved paraeducator preparation program. When an institution proposes revisions that exceed the primary scope of its program, the revisions become operative only after approval by the state board.

281—80.8(272) Organizational and resource standards. Organization and resources adequately support the preparation of paraeducator candidates to enable them to meet state standards in accordance with the provisions of this rule.

80.8(1) The unit provides resources and support necessary for the delivery of a quality certification program, including resources to support a quality hands-on (clinical) experience and resources to support technological and instructional needs to enhance candidate learning.

80.8(2) The unit provides evidence of collaboration with members of the professional community, including the unit's advisory committee comprised of school administrators, classroom teachers, currently employed paraprofessionals and others, to design, deliver, and evaluate programs to prepare paraeducators.

80.8(3) The unit's use of staff in teaching roles is purposeful and managed to ensure integrity, quality, and continuity of the program(s).

80.8(4) The unit ensures that resources are equitable for all program components, regardless of delivery or location.

281—80.9(272) Diversity standards.

80.9(1) The unit will ensure that the paraeducator preparation program meets the following diversity standards:

a. The unit provides an environment and experiences to paraeducator candidates to support candidate growth in knowledge, skills, and dispositions to help diverse groups of PK-12 students learn.

b. The unit's plans, policies, and practices document its efforts in establishing and maintaining a diverse staff, climate, and paraeducator candidate pool that strives to represent the diverse makeup of the community at large.

80.9(2) In addition to the provisions of rule 281—80.11(272), the unit is to gather data about its implementation of this rule, use those data to make program improvements, and share those data and improvements with the schools and communities the unit serves.

281—80.10(272) Faculty standards. Unit staff qualifications and performance facilitate the unit's role in the preparation of a professional paraeducator in accordance with the provisions of this rule.

80.10(1) The unit documents the alignment of teaching duties for each faculty member with that member's preparation, knowledge, experiences, and skills appropriate for training paraeducators to serve in a school setting.

80.10(2) The institution holds unit staff accountable for teaching the critical concepts and principles of the discipline.

281—80.11(272) Program assessment and evaluation standards. The unit's assessment system will appropriately monitor individual candidate performance and use that data in concert with other program information to improve the unit and its programs in accordance with the provisions of this rule.

80.11(1) Each paraeducator candidate's knowledge and skills will be measured against state certification standards adopted by the board of educational examiners under Iowa Code section 272.12 and the unit's learning outcomes for any certificate for which the unit may recommend the candidate.

80.11(2) Programs will submit curriculum exhibits for approval by the department.

80.11(3) The unit will establish a standard of satisfactory performance of paraeducator candidates, which will comply with the following paragraphs:

- a.* The unit uses measures for candidate assessment that are fair, reliable, and valid.
- b.* The unit assesses candidates on their demonstration and attainment of unit standards.
- c.* The unit uses a variety of assessment measures for assessment of candidates on each unit standard.
- d.* The unit provides candidates with formative feedback on their progress toward attainment of unit standards.

80.11(4) The unit will conduct a survey of graduates and their employers to ensure that its graduates are well prepared for their assigned roles.

80.11(5) The unit will have a clearly defined, cohesive assessment system and regularly review, analyze, and revise its assessment practices.

80.11(6) The unit will collect and analyze aggregated candidate and program data, use those data to make program improvements, and share those data and improvements with stakeholders on a regular basis.

80.11(7) An annual report including a composite of evaluative data collected by the unit will be submitted to the department by September 30 of each year.

80.11(8) When it publicly reports data, the unit will comply with all applicable privacy laws, including the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. §1232g.

281—80.12(272) Clinical practice standards. The unit and its school partners will provide clinical experience opportunities that assist candidates in becoming successful paraeducators in accordance with the provisions of this rule.

80.12(1) Paraeducator clinical experiences support learning in the context in which paraeducators will practice.

80.12(2) Paraeducator clinical experiences include the following:

- a.* A minimum of ten hours of experience in a state-approved school or educational facility under the supervision of a licensed educator.
- b.* Opportunities for paraeducator candidates to observe and be observed by others in the application of skills and knowledge.

These rules are intended to implement Iowa Code section 256.7(22).

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 281—Chapter 83
“Teacher and Administrator Quality Programs”

Iowa Code sections authorizing rulemaking: 284.3(3), 284.5(8), and 284.6(6)
State or federal law(s) implemented by the rulemaking: Iowa Code chapter 284

Public Hearing

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

September 12, 2023
9 to 10 a.m.

ICN Room, Second Floor
Grimes State Office Building
Des Moines, Iowa

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis. Written comments in response to this Regulatory Analysis must be received by the Department of Education no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Thomas A. Mayes
Grimes State Office Building, Second Floor
400 East 14th Street
Des Moines, Iowa 50319
Phone: 515.281.8661
Email: thomas.mayes@iowa.gov

Purpose and Summary

This proposed rulemaking implements a program to support beginning Iowa teachers and administrators.

Analysis of Impact

1. Persons affected by the proposed rulemaking:
 - Classes of persons that will bear the costs of the proposed rulemaking:
Education institutions will bear the costs of the proposed rulemaking.
 - Classes of persons that will benefit from the proposed rulemaking:
Future Iowa teachers and administrators, the students they will serve, and their present and future employers will benefit from the proposed rulemaking.
2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:
 - Quantitative description of impact:
Roughly 5 percent of Iowa teachers each year are beginning teachers. This rulemaking supports their entry into the profession.
 - Qualitative description of impact:
The Department discerns no qualitative impact.
3. Costs to the State:
 - Implementation and enforcement costs borne by the agency or any other agency:
The Department bears the costs of enforcement through its general appropriation.

- Anticipated effect on state revenues:
There is no anticipated effect on state revenues.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

The status quo chapter contains many instances of overly restrictive language and language that duplicates statutory text verbatim. The proposed rulemaking eliminates that language. The Department proposes retaining standards that have the highest relationship to improving student success.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

The Department has attempted to streamline the rules it is required to adopt.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:
The Department is required to adopt rules to implement this program.
- Reasons why alternative methods were rejected in favor of the proposed rulemaking:
Rulemaking is required.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

There is no discernable impact on small businesses.

Text of Proposed Rulemaking

ITEM 1. Rescind 281—Chapter 83 and adopt the following **new** chapter in lieu thereof:

CHAPTER 83 TEACHER AND ADMINISTRATOR QUALITY PROGRAMS

DIVISION I GENERAL STANDARDS APPLICABLE TO BOTH ADMINISTRATOR AND TEACHER QUALITY PROGRAMS

281—83.1(284,284A) Definitions. For the purpose of these rules, the following definitions apply:

“Administrator” or “school leader” means the same as “administrator” as defined in Iowa Code section 284A.2(1).

“Beginning administrator” means the same as defined in Iowa Code section 284A.2(2).

“*Beginning teacher*” means the same as defined in Iowa Code section 284.2(1). For purposes of the beginning teacher mentoring and induction program created pursuant to Iowa Code section 284.5 or in an approved career paths, leadership roles, and compensation framework or approved comparable system as provided in Iowa Code section 284.15, “beginning teacher” also includes preschool teachers who are licensed by the board of educational examiners under Iowa Code chapter 272 and are employed by a school district or area education agency.

“*Comprehensive evaluation*” means, with respect to a beginning teacher, the same as defined in Iowa Code section 284.2(2). With respect to a beginning administrator, “comprehensive evaluation” means the same as defined in Iowa Code section 284A.2(3).

“*Department*” means the department of education.

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

“*District facilitator*” means an individual in Iowa who serves as a coordinator for a district mentoring and induction program.

“*Evaluator*” means the same as defined in Iowa Code section 284.2(5).

“*Intensive assistance*” means the provision of organizational support and technical assistance to teachers, other than beginning teachers, for the remediation of identified teaching and classroom management concerns for a period not to exceed 12 months.

“*Leadership standards*” means the Iowa standards for school administrators adopted pursuant to Iowa Code section 256.7(27).

“*Mentor*” means, with respect to a beginning teacher, the same as defined in Iowa Code section 284.2(7). With respect to a beginning administrator, “mentor” means the same as defined in Iowa Code section 284A.2(7).

“*Performance review*” means the same as defined in Iowa Code section 284.2(8).

“*School board*” means the same as defined in Iowa Code section 284.2(9).

“*State board*” means the state board of education.

“*Teacher*” means the same as defined in Iowa Code section 284.2(11).

DIVISION II

SPECIFIC STANDARDS APPLICABLE TO TEACHER QUALITY PROGRAMS

281—83.2(284) Mentoring and induction program for beginning teachers.

83.2(1) Option one: *beginning teacher mentoring and induction program.* Completion of a beginning teacher mentoring and induction program is one manner in which a beginning teacher may satisfy Iowa Code section 272.28(1).

a. General.

(1) School districts and area education agencies may provide a beginning teacher mentoring and induction program for all beginning teachers as specified in Iowa Code section 284.5.

(2) A school district or area education agency may offer a teacher a third year of participation in the program if, after conducting a comprehensive evaluation, the school district or area education agency determines that the teacher is likely to successfully complete the mentoring and induction program by meeting the Iowa teaching standards by the end of the third year of eligibility. The third year of eligibility is offered at the employing district’s or area education agency’s expense. A teacher granted a third year of eligibility shall, in cooperation with the teacher’s evaluator, develop a plan to meet the Iowa teaching standards and district or area education agency career expectations. This plan will be implemented by the teacher and supported through the district’s or area education agency’s mentoring and induction program. The school district or area education agency will notify the board of educational examiners that the teacher will participate in a third year of the school district’s program. The teacher will undergo a comprehensive evaluation at the end of the third year. For purposes of comprehensive evaluations for beginning teachers, including the comprehensive evaluation necessary for the beginning teacher to progress to career teacher, the Iowa teaching standards and criteria are as described in rule 281—83.3(284). A school district or area education agency will participate in state program evaluations.

b. Plan. Each school district or area education agency that offers a beginning teacher mentoring and induction program shall develop a sequential two-year beginning teacher mentoring and induction plan based on the Iowa teaching standards. A school district or area education agency will have the board adopt a beginning teacher mentoring and induction program plan and written procedures for the program. At the board's discretion, the district or area education agency may choose to use or revise the model plan provided by the area education agency or develop a plan locally. The components of a district's or area education agency's beginning teacher mentoring and induction program shall include, but are not limited to, the following:

- (1) Goals for the program.
- (2) A process for the selection of mentors.
- (3) A mentor training process that:
 1. Is consistent with effective staff development practices and adult professional needs to include skills needed for teaching, demonstration, and coaching.
 2. Addresses mentor needs, indicating a clear understanding of the role of the mentor.
 3. Results in the mentor's understanding of the personal and professional needs of new teachers.
 4. Provides the mentor with an understanding of the district expectations for beginning teacher competencies based on the Iowa teaching standards.
 5. Facilitates the mentor's ability to provide guidance and support to new teachers.
- (4) A supportive organizational structure for beginning teachers which will include:
 1. Activities that provide access and opportunities for interaction between mentor and beginning teacher that at a minimum provide:
 - Released time for mentors and beginning teachers to plan;
 - The demonstration of classroom practices;
 - The observation of teaching; and
 - Feedback.
 2. A selection process for who will be in the mentor/beginning teacher partnership.
 3. Roles and responsibilities of the mentor.
- (5) An evaluation process for the program, which includes:
 1. An evaluation of the district and area education agency program goals,
 2. An evaluation process that provides for the minor and major program revisions, and
 3. A process for how information about the program will be provided to interested stakeholders.
- (6) The process for dissolving mentor and beginning teacher partnerships.
- (7) A plan that reflects the needs of the beginning teacher employed by the district or area education agency.
- (8) Activities designed to support beginning teachers by:
 1. Developing and enhancing competencies for the Iowa teaching standards, and
 2. Providing research-based instructional strategies.
- (9) Funds, if appropriated by the general assembly, received by a school district or area education agency from the beginning teacher mentoring and induction program will be used for any or all of the following purposes: to pay any applicable costs of the employer's share of contributions to federal social security and the Iowa public employees' retirement system for a pension and annuity retirement system established under Iowa Code chapter 294 for such amounts paid by the district or area education agency. These funds are miscellaneous funds or are considered encumbered. A school district or area education agency will maintain a separate listing within its budget for payments received and expenditures made for this program. Funds that remain unencumbered or unobligated at the end of the fiscal year will not revert but will remain available for expenditure for the purposes of the program until the close of the succeeding fiscal year.

83.2(2) Option two: teacher leadership and compensation system.

a. General. Two years of successful teaching experience in a school district with an approved career paths, leadership roles, and compensation framework or approved comparable system as provided in Iowa Code section 284.15 ("framework for beginning teachers" for purposes of this rule) is one manner in which a beginning teacher may satisfy Iowa Code section 272.28(1).

b. Participation. School districts may provide an approved career paths, leadership roles, and compensation framework or approved comparable system as provided in Iowa Code section 284.15. A beginning teacher, as defined in this chapter, shall be informed by the school district, prior to the beginning teacher's participation in a framework for beginning teachers, of the Iowa teaching standards and criteria upon which the beginning teacher will be evaluated and of the evaluation process utilized by the school district. The beginning teacher will be supported by the teacher leadership and compensation program as defined in part 4 of the submitted plan. The beginning teacher will be comprehensively evaluated by the end of the beginning teacher's second year of teaching to determine whether the teacher meets expectations to move to the career level. The school district will recommend for a standard license a beginning teacher who has successfully met the Iowa teaching standards as determined by a comprehensive evaluation.

(1) If a beginning teacher who is participating in a framework for beginning teachers leaves the employ of a school district prior to completion of the framework, the school district or area education agency subsequently hiring the beginning teacher will credit the beginning teacher with the time earned in such a framework prior to the subsequent hiring.

(2) A school district may offer a teacher a third year of participation in a framework for beginning teachers if, after conducting a comprehensive evaluation, the school district determines that the teacher is likely to successfully meet the Iowa teaching standards by the end of the third year of eligibility. The third year of eligibility is offered at the employing district's expense. A teacher granted a third year of eligibility shall, in cooperation with the teacher's evaluator, develop a plan to meet the Iowa teaching standards and district or area education agency career expectations. This plan will be implemented by the teacher and supported through the district's framework for beginning teachers. The school district shall notify the board of educational examiners that the teacher will participate in a third year of the school district's framework for beginning teachers. The teacher is to undergo a comprehensive evaluation at the end of the third year.

(3) For purposes of comprehensive evaluations for beginning teachers, including the comprehensive evaluation necessary for the beginning teacher to progress to career teacher, the Iowa teaching standards and criteria are as described in rule 281—83.3(284). A school district shall participate in state program evaluations.

c. Plan assurances. Each school district that offers a framework under Iowa Code sections 284.15 through 284.17 and uses it for purposes of meeting the school district's obligations to beginning teachers is to provide assurances to the department that the district's framework for beginning teachers satisfies those Iowa Code sections and attends to the Iowa teaching standards and criteria described in rule 281—83.3(284).

d. Inapplicability to area education agencies. This subrule is not applicable to area education agencies. Only subrule 83.2(1) is applicable to area education agencies; however, a teacher employed by an area education agency may be included in a framework or comparable system established by a school district if the area education agency and the school district enter into a contract for such purpose.

281—83.3(284) Iowa teaching standards and criteria. The Iowa teaching standards and supporting criteria provide Iowa school districts and area education agencies with a consistent representation of the complexity and the possibilities of quality teaching. The standards serve as the basis for comprehensive evaluations of teachers and as a basis for professional development plans. Each standard with supporting criteria is outlined as follows:

83.3(1) Demonstrates ability to enhance academic performance and support for and implementation of the school district's student achievement goals.

a. The teacher:

(1) Provides multiple forms of evidence of student learning and growth to students, families, and staff.

(2) Implements strategies supporting student, building, and district goals.

(3) Uses student performance data as a guide for decision making.

(4) Accepts and demonstrates responsibility for creating a classroom culture that supports the learning of every student.

(5) Creates an environment of mutual respect, rapport, and fairness.

(6) Participates in and contributes to a school culture that focuses on improved student learning.

(7) Communicates with students, families, colleagues, and communities effectively and accurately.

b. Alternative criteria for area education agency staff who meet the definition of “teacher” are described herein. The staff member:

(1) Uses knowledge and understanding of the area education agency’s mission, goals, and strategic priorities to provide services that enhance academic performance.

(2) Understands and uses knowledge of area education agency and district goals and data to provide services that enhance academic performance.

(3) Participates in and contributes to a positive learning culture.

(4) Communicates with students, families, colleagues, and communities effectively and accurately.

(5) Uses area education agency, district, and student data as a guide for decision making.

83.3(2) Demonstrates competence in content knowledge appropriate to the teaching position.

a. The teacher:

(1) Understands and uses key concepts, underlying themes, relationships, and different perspectives related to the content area.

(2) Uses knowledge of student development to make learning experiences in the content area meaningful and accessible for every student.

(3) Relates ideas and information within and across content areas.

(4) Understands and uses instructional strategies that are appropriate to the content area.

b. Alternative criteria for area education agency staff who meet the definition of “teacher” are described herein. The staff member:

(1) Understands, communicates, and uses key concepts and best practice in fulfillment of area education agency roles and responsibilities.

(2) Uses knowledge of child and adolescent development and of adult learning to make interventions and strategies meaningful, relevant, and accessible.

(3) Relates professional knowledge and services within and across multiple content and discipline areas.

(4) Understands and supports strategies and interventions that are best practice across content and discipline areas.

83.3(3) Demonstrates competence in planning and preparing for instruction.

a. The teacher:

(1) Uses student achievement data, local standards, and the district curriculum in planning for instruction.

(2) Sets and communicates high expectations for social, behavioral, and academic success of all students.

(3) Uses students’ developmental needs, backgrounds, and interests in planning for instruction.

(4) Selects strategies to engage all students in learning.

(5) Uses available resources, including technology, in the development and sequencing of instruction.

b. Alternative criteria for area education agency staff who meet the definition of “teacher” are described herein. The staff member:

(1) Demonstrates the ability to organize and prioritize time, resources, and responsibilities.

(2) Demonstrates the ability to individually and collaboratively plan and prepare professional services that address the range of district, teacher, parent, and student needs.

(3) Uses district and student data to develop goals and interventions.

(4) Demonstrates the flexibility to plan for professional services based on changing conditions of the work context and environment.

(5) Uses available resources, including technology, to plan and develop professional services.

83.3(4) Uses strategies to deliver instruction that meets the multiple learning needs of students.

- a.* The teacher:
- (1) Aligns classroom instruction with local standards and district curriculum.
 - (2) Uses research-based instructional strategies that address the full range of cognitive levels.
 - (3) Demonstrates flexibility and responsiveness in adjusting instruction to meet student needs.
 - (4) Engages students in varied experiences that meet diverse needs and promote social, emotional, and academic growth.
 - (5) Connects students' prior knowledge, life experiences, and interests in the instructional process.
 - (6) Uses available resources, including technology, in the delivery of instruction.
- b.* Alternative criteria for area education agency staff who meet the definition of "teacher" are described herein. The staff member:
- (1) Aligns service delivery to district, teacher, parent, and student needs.
 - (2) Provides consultation, instruction, interventions, and strategies that align with learner needs.
 - (3) Demonstrates flexibility and responsiveness in adjusting services to meet diverse learner needs.
 - (4) Uses and supports research-based and evidence-based practices to meet learner needs.
 - (5) Uses available resources, including technology, to provide professional services that meet learner needs.

83.3(5) Uses a variety of methods to monitor student learning.

- a.* The teacher:
- (1) Aligns classroom assessment with instruction.
 - (2) Communicates assessment criteria and standards to all students and parents.
 - (3) Understands and uses the results of multiple assessments to guide planning and instruction.
 - (4) Guides students in goal setting and assessing their own learning.
 - (5) Provides substantive, timely, and constructive feedback to students and parents.
 - (6) Works with other staff and building and district leadership in analysis of student progress.
- b.* Alternative criteria for area education agency staff who meet the definition of "teacher" are described herein. The staff member:
- (1) Uses appropriate assessment, data collection, and data analysis methods that support alignment of services with learner needs.
 - (2) Works collaboratively within the learning community to establish measurable goals and to identify formative and summative methods to monitor progress and the quality of implementation.
 - (3) Communicates the rationale and criteria of assessment and monitoring methods.
 - (4) Elicits and provides timely and quality feedback on assessment and monitoring.

83.3(6) Demonstrates competence in classroom management.

- a.* The teacher:
- (1) Creates a learning community that encourages positive social interaction, active engagement, and self-regulation for every student.
 - (2) Establishes, communicates, models, and maintains standards of responsible student behavior.
 - (3) Develops and implements classroom procedures and routines that support high expectations for student learning.
 - (4) Uses instructional time effectively to maximize student achievement.
 - (5) Creates a safe and purposeful learning environment.
- b.* Alternative criteria for area education agency staff who meet the definition of "teacher" are described herein. The staff member:
- (1) Models respectful dialogue and behaviors within and across job responsibilities.
 - (2) Promotes and maintains a positive, safe, and productive environment.
 - (3) Works collaboratively and is flexible.
 - (4) Communicates accurately and effectively.

83.3(7) Engages in professional growth.

- a.* The teacher:
- (1) Demonstrates habits and skills of continuous inquiry and learning.
 - (2) Works collaboratively to improve professional practice and student learning.

(3) Applies research, knowledge, and skills from professional development opportunities to improve practice.

(4) Establishes and implements professional development plans based upon the teacher's needs aligned to the Iowa teaching standards and district/building student achievement goals.

(5) Provides an analysis of student learning and growth based on teacher-created tests and authentic measures as well as any standardized and districtwide tests.

b. Alternative criteria for area education agency staff who meet the definition of “teacher” are described herein. The staff member:

(1) Demonstrates habits and skills of continuous inquiry and learning.

(2) Works collaboratively to improve professional practices.

(3) Applies and shares research, knowledge, and skills from professional development.

(4) Establishes and implements professional development plans aligned to area education agency, district, and student learning goals.

83.3(8) Fulfills professional responsibilities established by the school district.

a. The teacher:

(1) Adheres to board policies, district procedures, and contractual obligations.

(2) Demonstrates professional and ethical conduct as defined by state law and district policy.

(3) Contributes to efforts to achieve district and building goals.

(4) Demonstrates an understanding of and respect for all learners and staff.

(5) Collaborates with students, families, colleagues, and communities to enhance student learning.

b. Alternative criteria for area education agency staff who meet the definition of “teacher” are described herein. The staff member:

(1) Adheres to board policies, area education agency procedures, federal and state rules, and contractual obligations.

(2) Demonstrates professional and ethical conduct as defined by state law and area education agency policies.

(3) Contributes to efforts to achieve area education agency goals.

(4) Demonstrates an understanding of and respect for all learners.

(5) Collaborates with all learners.

83.3(9) The school board will provide comprehensive evaluations for beginning teachers using the Iowa teaching standards and criteria listed in this rule. The school board, for the purposes of performance reviews for teachers other than beginning teachers, will provide evaluations that contain, at a minimum, the Iowa teaching standards and criteria listed in this rule.

281—83.4(284) Evaluator approval training. The department will approve eligible providers and their programs to conduct evaluator training. Only individuals certified through programs approved by the department qualify for evaluator certification by the board of educational examiners. A beginning teacher who has evaluator certification from the board of educational examiners shall not evaluate other teachers until the beginning teacher is no longer a probationary employee. Approved evaluator training programs are designed to align with the Iowa teaching standards and criteria, provide evaluators with the skills to conduct comprehensive evaluations and performance reviews pursuant to Iowa Code chapter 284, and provide for the evaluation of the progress made on individual professional development plans. This training for evaluators is to incorporate components of theory, demonstration, practice, and application of evaluation knowledge and skills.

83.4(1) *Applications for providers of evaluator approval training.* Eligible applications for the provision of evaluator approval training include the following components:

a. A curriculum that addresses participant skill development in:

(1) The identification of quality instruction and practices based on the Iowa teaching standards and criteria;

(2) The use of multiple forms of data collection for identifying and supporting performance and development;

(3) The understanding and development of conferencing and feedback skills; and

- (4) The development of skills in data-based decision making.
 - b. Demonstration that the evaluator approval training process design provides training as specified in this rule.
 - c. A description of the process used to deliver the training to participants.
 - d. A description of the procedures developed to certify the skill attainment of the evaluator being trained.
 - e. A budget.
 - f. Staff qualifications.
 - g. Evidence of the provider's expertise in evaluation design and training processes.
 - h. Provisions for leadership to support and implement ongoing professional development focused on student learning.
 - i. A process that evaluates the effectiveness of the implementation of the training process and demonstrates that the trainees have attained the knowledge and skills as described in paragraph 83.4(1) "a." This evaluation will be conducted on an annual basis and submitted to the department.

83.4(2) *Process used for the approval of evaluator approval training program applications.*

a. Eligible providers will apply on forms prescribed by the department. Applications for new providers will be accepted and reviewed by the department by July 1 of each year. A review panel will be convened to review applications for evaluator approval training programs based on subrule 83.4(1). The panel will recommend for approval and the department will approve the evaluator approval training programs that satisfy that subrule. Applicants will be notified of their status within 30 days of the application deadline. An approved list of private providers will be maintained on the department website with an annual notification to school districts and area education agencies of the website address that contains provider information.

b. Eligible providers may be public or private entities, including school districts, consortia, and other public or private entities including professional organizations. Applicants are to meet all applicable federal, state, and local health, safety and civil rights laws. Higher education administrative practitioner preparation institutions are to meet the review process through the state board approval and accreditation process for these institutions.

83.4(3) *Local teacher evaluation plans.* Local districts and area education agencies will develop and implement a teacher evaluation plan that contains the following components:

- a. The use of the Iowa teaching standards and criteria;
- b. Provisions for the comprehensive evaluation of beginning teachers that include a review of the teacher's progress on the Iowa teaching standards as set forth in rule 281—83.3(284) and the use of the comprehensive evaluation instrument developed by the department;
- c. Provisions for reviews of the performance of teachers other than beginning teachers as follows:
 - (1) Review once every three years by an evaluator to include, at a minimum, classroom observation of the teacher, a review of the teacher's progress on the Iowa teaching standards as set forth in rule 281—83.3(284) and additional standards and criteria if established under subrule 83.3(9), a review of the implementation of the teacher's individual professional development plan, and supporting documentation from other evaluators, teachers, parents, and students; and
 - (2) Review annually, other than the third-year review by an evaluator, by a peer group of teachers in accordance with Iowa Code section 284.8(1);
- d. Provisions for individual professional development plans for teachers other than beginning teachers;
- e. Provisions for an intensive assistance program as provided in Iowa Code section 284.8 that addresses the remediation defined under subrules 83.3(1) through 83.3(8).

(1) If a supervisor or an evaluator determines, at any time, as a result of a teacher's performance that the teacher is not meeting district expectations under subrules 83.3(1) through 83.3(8), the evaluator will, at the direction of the teacher's supervisor, recommend to the district that the teacher participate in an intensive assistance program. The intensive assistance program and its implementation are not subject to negotiation or grievance procedures established pursuant to Iowa Code chapter 20.

(2) A teacher who is not meeting the applicable standards and criteria based on a determination made pursuant to paragraph 83.4(3) “e” will participate in an intensive assistance program. However, a teacher who has previously participated in an intensive assistance program relating to particular Iowa teaching standards or criteria is not entitled to participate in another intensive assistance program relating to the same standards or criteria and is subject to the provisions of paragraph 83.4(3) “f.”

f. Following a teacher’s participation in an intensive assistance program, the teacher will be reevaluated to determine whether the teacher successfully completed the intensive assistance program and is meeting district expectations under the applicable Iowa teaching standards or criteria. If the teacher did not successfully complete the intensive assistance program or continues not to meet the applicable Iowa teaching standards or criteria, the school board may do any of the following:

- (1) Terminate the teacher’s contract immediately pursuant to Iowa Code section 279.27.
- (2) Terminate the teacher’s contract at the end of the school year pursuant to Iowa Code section 279.15.
- (3) Continue the teacher’s contract for a period not to exceed one year. However, the contract will not be renewed and is not subject to Iowa Code section 279.15.

281—83.5(284) Professional development for teachers.

83.5(1) *Professional development for school districts, area education agencies, and attendance centers.* The following provisions apply to professional development for school districts, area education agencies, and attendance centers.

a. Professional learning standards. Professional learning within an area education agency or local district is aligned with the state standards for teaching and learning and aligned to the following standards for professional development. Professional learning increases educator effectiveness and results for all students when it:

- (1) Occurs within learning communities committed to continuous improvement, collective responsibility, and goal alignment.
- (2) Requires skillful leaders to develop capacity, advocate, and create support systems for professional learning.
- (3) Prioritizes, monitors, and coordinates resources for educator learning.
- (4) Uses a variety of sources and types of student, educator, and system data to plan, assess, and evaluate effectiveness of instruction.
- (5) Integrates theories, research, and models of human learning to achieve intended outcomes.
- (6) Applies research on change and sustains support for implementation of professional learning for long-term change.
- (7) Aligns its outcomes with educator performance and student curriculum standards.

b. District or area education agency professional development plan. The district or area education agency professional development plan is to be a long-term plan designed and implemented to increase student achievement and includes all on-site and district or area education agency personnel responsible for instruction. The district or area education agency professional development plan is to contain, but not be limited to, the following:

- (1) Implementation of a school district’s or area education agency’s plan for professional learning.
- (2) Documentation that the professional development is based on student data; aligned with district or attendance center student achievement goals; and focused on instruction, curriculum, and assessment.
- (3) The study and implementation of research-based instructional strategies that improve teaching and learning.
- (4) Collaborative inquiry into the area of greatest student learning need.
- (5) Research-based training strategies (e.g., theory, demonstration, observation, practice, coaching, reflection, evaluation) that promote transfer and positive outcomes as needed for learning new practices.
- (6) Allocation of time to collectively study content, instruction, and impact so necessary adjustments can be made to ensure student success.
- (7) Accountability and an evaluation that documents improvement of practice and the impact on student learning.

c. Attendance center professional development plans. Each attendance center within a school district will develop an attendance center professional development plan as a means of promoting group professional development. An attendance center professional development plan will further the needs of personnel responsible for instruction in the attendance center and enhance the student achievement goals of the attendance center and the goals of the district.

d. Individual professional development plans. The school district and area education agency shall support the development and implementation of the individual teacher professional development plan for each teacher as outlined in subrule 83.5(2). Each individual teacher professional development plan will align to the fullest extent possible with the district professional development plan.

e. Beginning teacher mentoring and induction. A school district will develop and implement a beginning teacher mentoring and induction plan as outlined in subrule 83.2(1) or a framework for beginning teachers as outlined in subrule 83.2(2). The district's beginning teacher mentoring and induction plan or framework for beginning teachers will align with the district professional development plan described in paragraph 83.5(1) "b." An area education agency will develop and implement a beginning teacher mentoring and induction plan as outlined in subrule 83.2(1), which will align with the area education agency's professional development plan described in paragraph 83.5(1) "b."

f. Organizational support for professional development. The school district will provide resources and support for the district professional development plan, including opportunities for professional development, time for collaborative work of staff, budgetary support, and policies and procedures that reflect the district's commitment to professional development.

83.5(2) Individual teacher professional development plan. Each school district and area education agency shall support the development and implementation of individual teachers' professional development plans for teachers other than beginning teachers. The purpose of the individual plan is to promote individual and collective professional development. At a minimum, the goals for an individual teacher professional development plan are based on the needs of the teacher and on the relevant Iowa teaching standards that support the student achievement goals of the teacher's classroom or classrooms, attendance center and school district or area education agency, as appropriate, as outlined in the comprehensive school improvement plan. The goals will go beyond those under the attendance center professional development plan described in paragraph 83.5(1) "c." The learning opportunities provided to meet the goals of the individual teacher plan include individual study and collaborative study of district-determined or area education agency-determined content to the extent possible. The individual plan will be developed by the teacher in collaboration with the teacher's evaluator. An annual meeting will be held between the teacher's evaluator and the teacher to review the goals and refine the plan.

83.5(3) Professional development provider standards.

a. A provider may be a school district; an area education agency; a higher education institution; a public or private entity including a professional organization that provides long-term, ongoing support for the district's or area education agency's professional development plan; or a consortium of any of the foregoing. An educational organization or program with specific professional development accreditation or approval from the department is an approved provider.

b. Providers that are not currently accredited or approved through state accreditation procedures will follow approval procedures identified in the district's or area education agency's professional development plan. The potential provider will submit to the school district or area education agency a written application that provides the following documentation:

(1) How the provider will deliver technical assistance that meets the Iowa professional development standards provided in paragraph 83.5(1) "a."

(2) How the provider intends to assist the local district or area education agency in designing, implementing, and evaluating professional development that satisfies paragraph 83.5(1) "b."

(3) A description of the qualifications of the provider.

(4) Evidence of the provider's expertise in professional development.

(5) A budget.

- (6) Procedures for evaluating the effectiveness of the technical assistance delivered by the provider.

281—83.6(284) Teacher quality committees. Each school district and area education agency will create a teacher quality committee pursuant to Iowa Code section 284.4. The committee is subject to Iowa Code chapter 21. To the extent possible, committee membership will have balanced representation with regard to gender. The committee will do all of the following:

1. Monitor the implementation of statutes and administrative code provisions relating to this chapter, including those that affect any agreement negotiated pursuant to Iowa Code chapter 20.
2. Monitor the evaluation provisions of this chapter to ensure evaluations are conducted in a fair and consistent manner throughout the school district or agency. The committee will develop model evidence for the Iowa teaching standards and criteria. The model evidence will minimize paperwork and focus on teacher improvement. The model evidence will determine which standards and criteria can be met through observation and which evidence meets multiple standards and criteria.
3. Determine, following the adoption of the Iowa professional development model by the state board of education, the use and distribution of the professional development funds distributed to the school district or agency as provided in Iowa Code section 284.13(1)“d” based upon school district or agency, attendance center, and individual teacher professional development plans.
4. Monitor the professional development in each attendance center to ensure that the professional development meets school district or agency, attendance center, and individual teacher professional development plans.
5. Determine the compensation for teachers on the committee for work responsibilities beyond the normal workday.
6. Make recommendations to the school board and the certified bargaining representative regarding the expenditures of market factor incentives.

DIVISION III
SPECIFIC STANDARDS APPLICABLE TO ADMINISTRATOR QUALITY PROGRAMS

281—83.7(284A) Administrator quality program. An administrator quality program is established to promote high student achievement and enhanced educator quality and consists of the following four major components:

1. Adherence to the Iowa school leadership standards and criteria as the minimum basis for evaluations of administrators and as the basis for professional development plans for administrators.
2. Mentoring and induction programs that provide support for administrators in accordance with Iowa Code section 284A.5.
3. Professional development designed to directly support best practice for leadership.
4. Evaluation of administrators against the Iowa standards for school administrators.

281—83.8(284A) Mentoring and induction program for administrators. Each school board will establish a beginning administrator mentoring and induction program as specified in Iowa Code section 284A.5.

281—83.9(284A) Iowa school leadership standards for administrators. The Iowa school leadership standards for administrators provide a framework to guide leadership practice and how leaders are prepared, hired, developed, supervised and evaluated. A local school board may establish additional administrator standards and related criteria but will, at a minimum, utilize the following standards.

83.9(1) Mission, vision, and core values. Educational leaders develop, advocate, and enact a shared mission, vision, and core values of high-quality education and academic success and well-being of each student.

83.9(2) Ethics and professional norms. Educational leaders act ethically and according to professional norms to promote each student’s academic success and well-being.

83.9(3) *Equity and cultural responsiveness.* Educational leaders strive for equity of educational opportunity and culturally responsive practices to promote each student's academic success and well-being.

83.9(4) *Curriculum, instruction, and assessment.* Educational leaders develop and support intellectually rigorous and coherent systems of curriculum, instruction, and assessment to promote each student's academic success and well-being.

83.9(5) *Community of care and support for students.* Educational leaders cultivate an inclusive, caring, and supportive school community that promotes the academic success and well-being of each student.

83.9(6) *Professional capacity of school personnel.* Educational leaders develop the professional capacity and practice of school personnel to promote each student's academic success and well-being.

83.9(7) *Professional community for teachers and staff.* Educational leaders foster a professional community of teachers and other professional staff to promote each student's academic success and well-being.

83.9(8) *Meaningful engagement of families and communities.* Educational leaders engage families and the community in meaningful, reciprocal, and mutually beneficial ways to promote each student's academic success and well-being.

83.9(9) *Operations and management.* Educational leaders manage school operations and resources to promote each student's academic success and well-being.

83.9(10) *School improvement.* Educational leaders act as agents of continuous improvement to promote each student's academic success and well-being.

281—83.10(284A) Evaluation. The board of directors of a school district will conduct an annual evaluation of an administrator who holds a professional administrator license issued under Iowa Code chapter 272, as specified in Iowa Code section 284A.7.

281—83.11(284A) Professional development of administrators. Each school district is responsible for the provision of professional growth programming for individuals employed in a school district administrative position by the school district or area education agency as deemed appropriate by the board of directors of the school district or area education agency as specified in Iowa Code section 284A.6.

These rules are intended to implement Iowa Code chapters 284 and 284A.

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 875—Chapter 32
“Child Labor”

Iowa Code section authorizing rulemaking: 92.21
State or federal law(s) implemented by the rulemaking: 2023 Iowa Acts, Senate File 542

Public Hearing

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

September 26, 2023
9:30 to 10:30 a.m.

Conference Room 106
150 Des Moines Street
Des Moines, Iowa

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis. Written comments in response to this Regulatory Analysis must be received by the Division of Labor Services no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Mitchell Mahan
150 Des Moines Street
Des Moines, Iowa 50309
Email: mitchell.mahan@dia.iowa.gov

Purpose and Summary

The proposed rulemaking implements 2023 Iowa Acts, Senate File 542, by eliminating permits and penalties for lack of permits, allowing some previously forbidden work, clarifying new allowed work, establishing procedures for waivers allowed by the legislation, changing terminology from “occupations” to “activities” and from “commissioner” to “director,” defining the youth employment exception from otherwise disallowed activities, and renumbering as needed.

Analysis of Impact

1. Persons affected by the proposed rulemaking:
 - Classes of persons that will bear the costs of the proposed rulemaking:
Employers of minors will bear the costs of the proposed rulemaking.
 - Classes of persons that will benefit from the proposed rulemaking:
Minor employees benefit from the safety aspects of this rulemaking. Employers of minors benefit from no longer doing permits and being able to safely employ minors in a broader range of activities.
2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:
 - Quantitative description of impact:
The rulemaking will increase Iowa’s workforce.
 - Qualitative description of impact:
The rulemaking will provide enhanced opportunities for minors.
3. Costs to the State:
 - Implementation and enforcement costs borne by the agency or any other agency:
The elimination of permits will more than offset any expected costs of enforcement.

- Anticipated effect on state revenues:
Increased minor employment and a greater ability to train minors for future jobs are expected to enhance state revenues.
4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:
The benefits are necessary clarification for employers and greater minor participation in the workforce. Inaction would create employer uncertainty and risks to minor employees.
5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:
The rulemaking is intended to provide an appropriate balance between safety and workforce enhancement.
6. Alternative methods considered by the agency:
- Description of any alternative methods that were seriously considered by the agency:
There was discussion of whether the cost of nonslip shoes for industrial laundering in the definition of “laundering” in rule 875—32.5(92) should be borne by the minor or the employer.
 - Reasons why alternative methods were rejected in favor of the proposed rulemaking:
Since the nonslip shoes are necessary for an activity previously disallowed, it seems appropriate to have employers rather than minors bear the expense.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking’s compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

These proposed amendments give small businesses more ways to employ minors without the burden of child labor permits. Safety implementation is related to employment activities that were previously disallowed altogether. Overall, the rulemaking will have a positive impact on small business.

Text of Proposed Rulemaking

ITEM 1. Adopt the following **new** definition of “Director” in rule **875—32.1(92)**:
“*Director*” means the director of the department of inspections, appeals, and licensing or the director’s designee.

ITEM 2. Amend rule **875—32.1(92)**, definitions of “Filing date” and “Occupation or business operated by the child’s parents,” as follows:
“*Filing date*” means the date a document is postmarked by the U.S. Postal Service, if the document is filed by mailing and the U.S. postmark is legible. For a document filed via facsimile transmission,

“filing date” means the date the document is transmitted. For any other document, “filing date” means the date the document is received by the ~~labor commissioner~~ director.

~~“Occupation or business operated~~ *Operated by the child’s parents,*” as used in Iowa Code section 92.17(4) ~~92.17(3),~~ means a business operated by the child’s parent ~~where the parent or licensed foster parent who has control of the day-to-day operation of the business and is on the premises during the hours of the child’s employment.~~

ITEM 3. Rescind the definitions of “Migrant labor permit,” “Other work,” “Part-time,” “Street trade,” “Street trades permit” and “Work permit” in rule **875—32.1(92)**.

ITEM 4. Amend rule **875—32.1(92)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code chapter 92 as amended by 2019 Iowa Acts, Senate File 337.

ITEM 5. Rescind and reserve rule **875—32.2(92)**.

ITEM 6. Adopt the following **new** rule 875—32.5(92):

875—32.5(92) Terms. The terms used in Iowa Code section 92.5 are defined and applied as specified in this rule.

32.5(1) *Cleaning products that require personal protective equipment.* Prior to allowing a 14- or 15-year-old to use cleaning products that require personal protective equipment, the employer shall submit to the director the following:

- a. The safety data sheets of all such chemicals the minor will use.
- b. What personal protective equipment the minor will be using with each chemical that requires it.
- c. Proof of training the minor on the use of the required personal protective equipment.

32.5(2) *Definitions.*

“*Car cleaning, washing, and polishing*” as used in Iowa Code section 92.5(9) does not include using chemicals that recommend personal protective equipment.

“*Laundering*” as used in Iowa Code section 92.5(12) as enacted by 2023 Iowa Acts, Senate File 542, section 3, includes laundering with residential-style machines and includes laundromats. It includes industrial laundering on the following conditions:

1. A parent or guardian gives written permission for the minor to do industrial laundering, to be kept on file by the employer.
2. The minor is not exposed to any chemicals that recommend personal protective equipment.
3. The employer shall provide nonslip shoes.
4. The employer shall provide training on bloodborne pathogens.
5. The minor shall lift loads of no more than 30 pounds.

“*Light tools*” as used in Iowa Code section 92.5(11) as enacted by 2023 Iowa Acts, Senate File 542, section 3, includes the listed tools that are up to 30 pounds.

This rule is intended to implement Iowa Code section 92.5.

ITEM 7. Adopt the following **new** rule 875—32.6(92):

875—32.6(92) Terms. The terms used in Iowa Code section 92.6A as enacted by 2023 Iowa Acts, Senate File 542, section 5, are defined and applied as specified in this rule.

“*Light assembly work*” means assembling with nonpower hand tools and does not include welding.

“*Properly licensed*” means a minor who holds a current license from the National Pool and Waterpark Lifeguard Training program in one of the following programs:

1. National Pool and Waterpark Pool Lifeguard.
2. National Pool and Waterpark Lifeguard Training.
3. National Pool and Waterpark Deep Water Lifeguard.

If there is a question whether a specific training course meets the requirements of these rules, information about the course should be submitted to the director for evaluation.

32.6(1) Waiver of weight limitation. An employer may submit an application for waiver to allow a 15-year-old person to load, unload, or lift up to 50 pounds for work allowed under Iowa Code section 92.6A(1) as enacted by 2023 Iowa Acts, Senate File 542, section 5. The application shall include information required by the director in an application form. The application shall be signed by the employer, the minor employee, and a parent or guardian. The application shall include documentation from a physician or physician's assistant that the minor is physically capable of this work activity.

32.6(2) Waiver to unload lawn machines. An employer may submit an application for waiver to allow a 15-year-old person to unload lawn machines under Iowa Code section 92.6A(3) as enacted by 2023 Iowa Acts, Senate File 542, section 5. The application shall include information required by the director in an application form. The application shall be signed by the employer, the minor, and a parent or guardian. The application shall include documentation from a physician or physician's assistant that the minor is physically capable of this work activity.

This rule is intended to implement Iowa Code section 92.6A as enacted by 2023 Iowa Acts, Senate File 542, section 5.

ITEM 8. Amend subrule 32.8(1) as follows:

32.8(1) "~~Ocupations~~ *Work activities in or about plants or establishments manufacturing or storing explosives or articles containing explosive components*" means:

a. All ~~ocupations~~ activities in or about any plant or establishment (other than retail establishments or plants or establishments of the type described in ~~subrule~~ paragraph "b-") manufacturing or storing explosives or articles containing explosive components except where the ~~ocupation is~~ activities are performed in a "nonexplosive area."

b. The following ~~ocupations~~ activities in or about any plant or establishment manufacturing or storing small-arms ammunition not exceeding .60 caliber in size, shotgun shells, or blasting caps when manufactured or stored in conjunction with the manufacture of small-arms ammunition:

(1) All ~~ocupations~~ activities involved in the manufacturing, mixing, transporting, or handling of explosive compounds in the manufacture of small-arms ammunition and all other ~~ocupations~~ activities requiring the performance of any duties in the explosives area in which explosive compounds are manufactured or mixed.

(2) All ~~ocupations~~ activities involved in the manufacturing, transporting, or handling of primers and all other ~~ocupations~~ activities requiring the performance of any duties in the same building in which primers are manufactured.

(3) All ~~ocupations~~ activities involved in the priming of cartridges and all other ~~ocupations~~ activities requiring the performance of any duties in the same workroom in which rim-fire cartridges are primed.

(4) All ~~ocupations~~ activities involved in the plate loading of cartridges and in the operation of automatic loading machines.

(5) All ~~ocupations~~ activities involved in the loading, inspecting, packing, shipping and storage of blasting caps.

c. No change.

d. Nothing in this subrule shall be construed to prohibit light assembly work that is away from machines, and nothing in this subrule shall be construed to prohibit selling or assisting in the sale of consumer fireworks in accordance with Iowa Code section 100.19.

ITEM 9. Rescind subrule **32.8(2)**.

ITEM 10. Renumber subrules **32.8(3)** to **32.8(21)** as **32.8(2)** to **32.8(20)**.

ITEM 11. Amend renumbered subrule 32.8(2) as follows:

32.8(2) "~~Ocupations involved in logging occupations and occupations in Logging and the operation of any sawmill, lath mill, shingle mill, or cooperage-stock mill~~" means all ~~ocupations~~ related activities with the following exceptions:

a. Exceptions applying to logging:

(1) to (3) No change.

(4) Peeling of fence posts, pulpwood, chemical wood, excelsior wood, cordwood, or similar products, when not done in conjunction with and at the same time and place as other logging ~~occupations~~ activities prohibited by this subrule.

(5) No change.

b. Exceptions applying to the operation of any permanent sawmill or the operation of any lath mill, shingle mill, or cooperage-stock mill:

(1) to (9) No change.

(10) Manual loading of bundles of shingles or shakes into trucks or railroad cars, provided that the employer has on file a statement from a licensed doctor of medicine or osteopathy certifying the minor capable of performing this work without injury. The exceptions in paragraph “*b.*” subparagraphs (1) to (10), do not apply to a portable sawmill the lumberyard of which is used only for the temporary storage of green lumber and in connection with which no office or repair or maintenance shop is ordinarily maintained and work which entails entering the sawmill building.

Definitions.

“*All occupations in logging Logging*” means all work performed in connection with the felling of timbers; the bucking or converting of timber into logs, poles, piles, ties, bolts, pulpwood, chemical wood, excelsior wood, cordwood, fence posts, or similar products; the collecting, skidding, yarding, loading, transporting and unloading of these products in connection with logging; the constructing, repairing and maintaining of roads, railroads, flumes, or camps used in connection with logging; the moving, installing, rigging, and maintenance of machinery or equipment used in logging; and other work performed in connection with logging. The term shall not apply to work performed in timber culture, timber-stand improvement, or in emergency firefighting.

“*All ~~occupations~~ activities in the operation of any sawmill, lath mill, shingle mill, or cooperage-stock mill*” means all work performed in or about any mill in connection with storing of logs and bolts; converting logs or bolts into sawn lumber, laths, shingles, or cooperage stock; storing, drying, and shipping lumber, laths, shingles, cooperage stock, or other products of the mills and other work performed in connection with the operation of any sawmill, lath mill, shingle mill, or cooperage-stock mill. The term shall not include work performed in the planing-mill department or other remanufacturing departments of any sawmill, or in any planing mill or remanufacturing plant not a part of a sawmill.

This subrule is intended to implement Iowa Code section ~~92.8(3)~~ 92.8(2).

ITEM 12. Amend renumbered subrule 32.8(3), introductory paragraph, as follows:

32.8(3) “*~~Occupations involved in the operation~~ Operation of power-driven woodworking machines*” means operating power-driven woodworking machines including supervision or controlling the operation of the machines, feeding material into the machines, and helping the operator to feed material into the machines, but not including the placing of material on a moving chain or in a hopper or slide for automatic feeding. Also included are ~~occupations~~ activities of setting up, adjusting, repairing, oiling or cleaning power-driven woodworking machines and the operations of off-bearing from circular saws and from guillotine-action veneer clippers.

ITEM 13. Amend renumbered subrule **32.8(3)**, implementation sentence, as follows:

This subrule is intended to implement Iowa Code section ~~92.8(4)~~ 92.8(3).

ITEM 14. Amend renumbered subrule 32.8(4), introductory paragraph, as follows:

32.8(4) “*~~Occupations~~ Work activities involving exposure to radioactive substances and to ionizing radiations*” means ~~occupation~~ activity in any workroom in which radium is stored or used in the manufacture of self-luminous compound; self-luminous compound is made, processed or packaged; self-luminous compound is stored, used or worked upon; incandescent mantles are made from fabric and solutions containing thorium salts, or are processed or packaged; and other radioactive substances are present in the air in average concentrations exceeding 10 percent of the maximum permissible concentrations in the air recommended for occupational exposure by the National Committee on Radiation Protection, as set forth in the 40-hour week column of Table One of the National Bureau of Standards Handbook No. 69 entitled “Maximum Permissible Body Burdens and Maximum Permissible Concentrations of Radionuclides in Air and in Water for Occupational Exposure,” June 5, 1959.

ITEM 15. Amend renumbered subrule **32.8(4)**, implementation sentence, as follows:

This subrule is intended to implement Iowa Code section ~~92.8(5)~~ 92.8(4).

ITEM 16. Amend renumbered subrule 32.8(5) as follows:

32.8(5) "~~Occupations involved in the operation~~ Operation of elevators and other power-driven hoisting apparatus" means:

a. Work of operating an elevator, crane, derrick, hoist, or high-lift truck, except operating an unattended automatic operation passenger elevator or an electric or air-operated hoist not exceeding one-ton capacity.

b. Work which involves riding on a manlift or on a freight elevator, except a freight elevator operated by an assigned operator.

c. Work of assisting in the operation of a crane, derrick or hoist performed by crane hookers, crane chasers, hookers-on, riggers, rigger helpers, and like ~~occupations~~ activities.

d. Exception. Iowa Code section ~~92.8(6)~~ 92.8(5) shall not prohibit the operation of an automatic elevator and an automatic signal operation elevator provided that the exposed portion of the car interior (exclusive of vents and other necessary small openings), the car door and the hoistway doors are constructed of solid surfaces without any opening through which a part of the body may extend; all hoistway openings at floor level have doors which are interlocked with the car door so as to prevent the car from starting until all doors are closed and locked; the elevator (other than hydraulic elevators) is equipped with a device which will stop and hold the car in case of overspeed or if the cable slackens or breaks; and the elevator is equipped with upper and lower travel limit devices which will normally bring the car to rest at either terminal and a final limit switch which will prevent the movement in either direction and will open in case of excessive over-travel by the car.

e. Definitions.

"*Automatic elevator*" means any passenger elevator, a freight elevator or a combination passenger-freight elevator, the operation of which is controlled by push buttons in a manner that the starting, going to the landing selected, leveling and holding, and the opening and closing of the car and hoistway doors are entirely automatic.

"*Automatic signal operation elevator*" means an elevator which is started in response to the operation of a switch (such as a lever or push button) in the car which when operated by the operator actuates a starting device that automatically closes the car and hoistway doors—from this point on, the movement of the car to the landing selected, leveling and holding when it gets there, and the opening of the car and hoistway doors are entirely automatic.

"*Crane*" means any power-driven machine for lifting and lowering a load and moving it horizontally, in which the hoisting mechanism is an integral part of the machine. The term shall include all types of cranes, such as cantilever gantry, crawler, gantry, hammerhead, ingot pouring, jib, locomotive, motor truck, overhead traveling, pillar jib, pintle, portal, semigantry, semiportal, storage bridge, tower, walking jib, and wall cranes.

"*Derrick*" means any power-driven apparatus consisting of a mast or equivalent members held at the top by guys or braces, with or without a boom, for use with a hoisting mechanism or operating ropes. The term shall include all types of derricks, such as A-frame, breast, Chicago boom, gin-pole, guy and stiff-leg derrick.

"*Elevator*" means any power-driven hoisting or lowering mechanism equipped with a car or platform which moves in guides in a substantially vertical direction. The term shall include both passenger and freight elevators, (including portable elevators or tiering machines), but shall not include dumbwaiters.

"*High-lift truck*" means any power-driven industrial type of truck used for lateral transportation that is equipped with a power-operated lifting device usually in the form of a fork or platform capable of tiering loaded pallets or skids one above the other. Instead of a fork or platform, the lifting device may consist of a ram, scoop, shovel, crane, revolving fork, or other attachments for handling specific loads. The term shall mean and include high-lift trucks known as fork lifts, fork trucks, fork-lift trucks, tiering trucks, or stacking trucks, but shall not mean low-lift trucks or low-lift platform trucks that are designed for the transportation of, but not the tiering of, material.

“*Hoist*” means any power-driven apparatus for raising or lowering a load by the application of a pulling force that does not include a car or platform running in guides. The term includes all types of hoists, such as base-mounted electric, clevis suspension, hook suspension, monorail, overhead electric, simple drum and trolley suspension hoists.

“*Manlift*” means any device intended for the conveyance of persons which consists of platforms or brackets mounted on, or attached to, an endless belt, cable, chain or similar method of suspension; the belt, cable or chain operating in a substantially vertical direction and being supported by and driven through pulleys, sheaves or sprockets at the top and bottom.

This subrule is intended to implement Iowa Code section ~~92.8(6)~~ 92.8(5).

ITEM 17. Amend renumbered subrule 32.8(6), introductory paragraph, as follows:

32.8(6) “~~Occupations involved in the operation~~ Operation of power-driven metal forming, punching and shearing machines” means ~~occupations of being the~~ operator of or helper on the following power-driven metal forming, punching, and shearing machines.

ITEM 18. Amend renumbered subrule **32.8(6)**, implementation sentence, as follows:

This subrule is intended to implement Iowa Code section ~~92.8(7)~~ 92.8(6).

ITEM 19. Amend renumbered subrule 32.8(7) as follows:

32.8(7) “~~Occupations in connection with mining~~ Mining” means all work performed underground in mines and quarries; underground working, open-pit, or surface part of any coal-mining plant that contribute to the extraction, grading, cleaning, or other handling of coal; on the surface at underground mines and underground quarries; in or about open-cut mines, open quarries, clay pits, and sand and gravel operations; at or about placer mining operations; at or about dredging operations for clay, sand or gravel; at or about bore-hole mining operations; in or about all metal mills, washer plants, or grinding mills reducing the bulk of the extracted minerals; and at or about any other crushing, grinding, screening, sizing, washing or cleaning operations performed upon the extracted minerals except where the operations are performed as a part of a manufacturing process.

The term “~~occupations in connection with~~ mining” shall not include:

a. to h. No change.

Nothing in this subrule shall be construed to permit any employment of minors in any other ~~occupation~~ activity otherwise prohibited by Iowa Code chapter 92.

This subrule is intended to implement Iowa Code section ~~92.8(8)~~ 92.8(7).

ITEM 20. Amend renumbered subrule 32.8(8) as follows:

32.8(8) “~~Occupations~~ Work activities in or about slaughtering and meat packing establishments and rendering plants” means:

a. All ~~occupations~~ activities on the killing floor, in curing cellars, and in hide cellars, except the work of messengers, runners, hand truckers and similar ~~occupations~~ activities which require entering workrooms or workplaces infrequently and for short periods of time.

b. All ~~occupations~~ activities involved in the recovery of lard and oils, except packaging and shipping of the products and the operation of lard-roll machines.

c. All ~~occupations~~ activities involved in tankage or rendering of dead animals, animal offal, animal fats, scrap meats, blood, and bones into stock feeds, tallow, inedible greases, fertilizer ingredients, and similar products.

d. All ~~occupations~~ activities involved in the operation or feeding of the following power-driven meat processing machines, including ~~the occupations of setting up~~ setting up, adjusting, repairing, oiling, or cleaning the machines regardless of the product being processed by these machines (including, for example, the slicing in a retail delicatessen of meat, poultry, seafood, bread, vegetables, or cheese, etc.):

1. Meat patty forming machines, meat and bone cutting saws, knives (except bacon-slicing machines), head splitters, and guillotine cutters;
2. Snout pullers and jaw pullers;
3. Skinning machines;
4. Horizontal rotary washing machines;

5. Casing-cleaning machines such as crushing, stripping, and finishing machines;
6. Grinding, mixing, chopping, and hashing machines; and
7. Presses (except belly-rolling machines).
- e. All ~~boning occupations~~ activities.
- f. All ~~occupations~~ activities involving the pushing or dropping of any suspended carcass, half carcass, or quarter carcass.
- g. All ~~occupations~~ activities involving hand-lifting or hand-carrying any carcass or half carcass of beef, pork, or horse, or any quarter carcass of beef or horse.

Definitions.

“*Boning occupation*” means the removal of bones from meat cuts. It does not include cutting, scraping or trimming meat from cuts containing bones.

“*Curing cellar*” means the workroom or workplace which is primarily devoted to the preservation and flavoring of meat by curing materials. It does not include the workroom or workplace where meats are smoked.

“*Hide cellar*” means the workroom or workplace where hides are graded, trimmed, salted, and otherwise cured.

“*Killing floor*” means the workroom or workplace where cattle, calves, hogs, sheep, lambs, goats, or horses are immobilized, shackled, or killed, and the carcasses are dressed prior to chilling.

“*Rendering plants*” means establishments engaged in the conversion of dead animals, animal offal, animal fats, scrap meats, blood, and bones into stock feeds, tallow, inedible greases, fertilizer ingredients and similar products.

“*Slaughtering and meat packing establishments*” means places in or about which cattle, calves, hogs, sheep, lambs, goats, or horses, poultry, rabbits or small game are killed, processed or butchered and establishments which manufacture or process meat products or sausage casings from these animals.

This subrule is intended to implement Iowa Code section ~~92.8(9)~~ 92.8(8).

ITEM 21. Amend renumbered subrule 32.8(9) as follows:

32.8(9) “~~Occupations involved in the operation~~ Operation of certain power-driven bakery machines” means ~~the occupations of~~ operating, assisting to operate or setting up, adjusting, repairing, oiling, or cleaning any horizontal or vertical dough mixer; batter mixer; bread dividing, rounding, or molding machine; dough brake; dough sheeter; combination bread slicing and wrapping machines; or cake cutting band saw and ~~the occupations of~~ setting up or adjusting a cookie or cracker machine. However, this definition does not apply to the operation of pizza dough rollers that are a type of dough sheeter that have been constructed with safeguards contained in the basic design so as to prevent fingers, hands, or clothing from being caught in the in-running point of the rollers, that have gears that are completely enclosed, and that have microswitches that disengage the machinery if the backs or sides of the rollers are removed, only when all the safeguards detailed in Iowa Code section ~~92.8(10)~~ 92.8(9) are present on the machinery, are operational, and have not been overridden.

This subrule is intended to implement Iowa Code section ~~92.8(10)~~ 92.8(9).

ITEM 22. Amend renumbered subrule 32.8(10) as follows:

32.8(10) “~~Occupations involved in the operations~~ Operation of paper-products machines” means operating or assisting to operate any of the following power-driven paper-products machines and includes:

- a. Arm-type wire stitcher or stapler, circular or band saw, corner cutter or mitering machine, corrugating and single- or double-facing machine, envelope die-cutting press, guillotine paper cutter or shear, horizontal bar scorer, laminating or combining machine, sheeting machine, scrap-paper baler, or vertical slotter.
- b. Platen die-cutting press, platen printing press, or punch press which involves hand feeding of the machine.
- c. The ~~occupations~~ activities of setting up, adjusting, repairing, oiling, or cleaning the machines in paragraphs “a” and “b” of this subrule including those which do not involve hand feeding.

d. Loading material into paper/cardboard balers except when the machine is powered off and the key is stored in a separate area from the machine.

Definitions.

“Operating or assisting to operate” means all work which involves starting or stopping a machine covered by this subrule, placing materials into or removing them from the machine, or any other work directly involved in operating the machine except loading material into balers when the machine is powered off and the key is stored in a separate area from the machine.

“Paper-products machine” means power-driven machines used in:

1. The remanufacture or conversion of paper or pulp into a finished product, including the preparation of materials for recycling.
2. The preparation of materials for disposal. The term applies to the machines whether they are used in establishments that manufacture converted paper or pulp products, or in any other type of manufacturing or nonmanufacturing establishments.

This subrule is intended to implement Iowa Code section ~~92.8(11)~~ 92.8(10).

ITEM 23. Amend renumbered subrule 32.8(11) as follows:

32.8(11) ~~*“Occupations involved in the manufacture of Manufacturing brick, tile and related products”*~~ means the manufacture of brick, tile and related products and includes the manufacture of clay construction products and of silica refractory products and includes:

- a. All work in or about establishments in which clay construction products are manufactured, except work in storage and shippings; work in offices, laboratories, and storerooms; and work in the drying departments of plants manufacturing sewer pipe.
- b. All work in or about establishments in which silica brick or other silica refractories are manufactured, except work in offices.
- c. Nothing in this subrule shall be construed to permit any employment of minors in any other ~~occupation~~ activities otherwise prohibited by Iowa Code chapter 92.

Definitions.

“Clay construction products” means brick, hollow structural tile, sewer pipe and kindred products, refractories, and other clay products such as architectural terra cotta, glazed structural tile, roofing tile, stove lining, chimney pipes and tops, wall coping, and drain tile. It does not include nonstructural-bearing clay products such as ceramic floor and wall tile, mosaic tile, glazed and enameled tile, faience, and similar tile, nor nonclay construction products such as sand-lime brick, glass brick, or nonclay refractories.

“Silica brick or other silica refractories” means refractory products produced from raw materials containing free silica as its main constituent.

This subrule is intended to implement Iowa Code section ~~92.8(12)~~ 92.8(11).

ITEM 24. Amend renumbered subrule 32.8(12) as follows:

32.8(12) ~~*“Occupations involved in the operation Operation of circular saws, band saws, and guillotine shears”*~~ means:

- a. ~~Occupations of operator~~ Operator of or helper on power-driven fixed or portable circular saws, band saws, and guillotine shears except machines equipped with full automatic feed and ejection.
- b. ~~The occupations of setting-up~~ Setting up, adjusting, repairing, oiling, or cleaning circular saws, band saws, or guillotine shears.

Definitions.

“Band saw” means a machine equipped with an endless steel band having a continuous series of notches or teeth, running over wheels or pulleys, and used for sawing materials.

“Circular saw” means a machine equipped with an endless steel disc and having a continuous series of notches or teeth on the periphery, mounted on shafting, and used for sawing materials.

“Guillotine shear” means a machine equipped with a movable blade operated vertically and used to shear materials. The term shall not include other types of shearing machines, using a different form of shearing action, such as alligator shears or circular shears.

“Helper” means a person who assists in the operation of a machine covered by this subrule by helping place materials into or remove them from the machine.

“Machines equipped with full automatic feed and ejection” means machines covered by this subrule which are equipped with devices for full automatic feeding and ejection and with a fixed barrier guard to prevent completely the operator or helper from placing any body part in the point-of-operation area.

“Operator” means a person who operates a machine covered by this subrule by performing functions such as starting or stopping the machine, placing materials into or removing them from the machine, or any other function directly involved in the operation of the machine.

This subrule is intended to implement Iowa Code section ~~92.8(13)~~ 92.8(12).

ITEM 25. Amend renumbered subrule 32.8(13) as follows:

32.8(13) “Wrecking, demolition and shipbreaking operations” means all work, including cleanup and salvage work, performed at the site of the total or partial razing, demolishing, or dismantling of a building, bridge, steeple, tower, chimney, other structure, ship or other vessel.

This subrule is intended to implement Iowa Code section ~~92.8(14)~~ 92.8(13).

ITEM 26. Amend renumbered subrule **32.8(14)**, implementation sentence, as follows:

This subrule is intended to implement Iowa Code section ~~92.8(15)~~ 92.8(14).

ITEM 27. Amend renumbered subrule 32.8(15) as follows:

32.8(15) “Excavation ~~occupations~~” means all ~~occupations~~ activities involved with:

a. to c. No change.

d. Working within shafts prior to the completion of all sinking and shoring operations.

This subrule is intended to implement Iowa Code section ~~92.8(16)~~ 92.8(15).

ITEM 28. Amend renumbered subrule 32.8(20) as follows:

32.8(20) ~~Hazardous occupations~~ Work activities prohibited by the ~~labor commissioner~~ director include the following:

a. ~~Occupations~~ Activities involved in the operation of power cutters on corn detasseling machines.

b. ~~Occupations~~ Activities involved in the driving of power-driven detasseling machines unless the driver has a valid driver’s license or a certificate issued by the Federal Extension Service showing that the driver has completed a 4-H farm and machinery program.

This subrule is intended to implement Iowa Code section ~~92.8(21)~~ 92.8(20).

ITEM 29. Adopt the following new rule 875—32.9(92):

875—32.9(92) Terms. The terms used in Iowa Code section 92.8A are defined and applied as specified in this rule.

“Incidental” means not a primary activity of the minor.

“Intermittent and for short periods of time” may vary depending on the degree and type of hazard. The frequency and duration of an activity shall make it clear the employee is a learner rather than a production worker. The burden is on the employer to justify more than one hour per day or 20 percent of a shift.

“Written permission” shall include a description of the activity that would otherwise be unlawful under Iowa Code section 92.8, including the expected frequency and duration of that activity.

This rule is intended to implement Iowa Code section 92.8A as enacted by 2023 Iowa Acts, Senate File 542, section 9.

ITEM 30. Amend rule 875—32.11(92), introductory paragraph, as follows:

875—32.11(92) Civil penalty calculation. An employer who violates this chapter or Iowa Code chapter 92 is subject to a civil penalty of not more than \$10,000 per violation as set forth in this rule. ~~The labor commissioner may refer a violation to the appropriate authority for criminal prosecution in addition to assessing a civil penalty.~~

ITEM 31. Amend subrules 32.11(1) and 32.11(2) as follows:

32.11(1) *Counting the number of violations.*

a. Violations shall be counted as follows: each day that a child works too many hours, works at a prohibited time, or works in a prohibited occupation shall be a separate violation.

a. ~~Each item of inaccurate information on each Iowa Child Labor Application/Work Permit shall be a separate violation.~~

b. ~~Each day that a child works without a permit, works too many hours, works at a prohibited time, or works in a prohibited occupation shall be a separate violation.~~

e. ~~If an employer completes the Iowa Child Labor Application/Work Permit but fails to file it by the deadline, each day that the minor works after the deadline shall be a separate violation.~~

b. The director may waive or reduce the penalty if this method of counting the violations would result in a penalty that is disproportionate to the harm done to the minor(s), the size of the employer, or both.

32.11(2) *Determining whether a violation is a repeat violation.* The higher penalty amounts outlined in subrules ~~32.11(3) through 32.11(4) and 32.11(5)~~ for repeat instances may be assessed by the ~~labor commissioner~~ director if citations regarding the earlier instance or instances are final action and occurred less than five years before.

ITEM 32. Rescind and reserve subrule **32.11(3)**.

ITEM 33. Amend subrule 32.11(6) as follows:

32.11(6) *Penalty reduction factors.* Except for violations related to the death of a child while working, the ~~labor commissioner~~ director shall reduce the penalty calculated pursuant to subrules 32.11(1) ~~through, 32.11(2), 32.11(4) and 32.11(5)~~ by the appropriate penalty reduction percentages set forth in this subrule. However, if the ~~labor commissioner~~ director requests information relevant to the penalty assessment and the employer does not provide responsive information, the ~~labor commissioner~~ director shall not reduce the penalty.

a. Penalty reduction for size of business. The ~~labor commissioner~~ director shall reduce a penalty by 25 percent if the employer has 25 or fewer employees. The ~~labor commissioner~~ director shall reduce the penalty amount by 15 percent if the employer has 26 to 100 employees. The ~~labor commissioner~~ director shall reduce the penalty amount by 5 percent if the employer has 101 to 250 employees.

b. Penalty reduction for good faith. The ~~labor commissioner~~ director may reduce a penalty by 15 percent based upon evidence that the employer made a good faith attempt to comply with the requirements. If at any time the ~~labor commissioner~~ director warned an employer in writing about a prohibited practice and a civil penalty is being assessed against the same employer for repeating the practice, the ~~labor commissioner~~ director shall not reduce the penalty based on good faith.

c. Penalty reduction for history. The ~~labor commissioner~~ director shall reduce a penalty by 10 percent if the ~~labor commissioner~~ director has not assessed a civil penalty under this chapter within the past five years. If the ~~labor commissioner~~ director has assessed a civil penalty under this chapter in the past five years but the civil penalty has not reached judicial or administrative finality, the civil penalty shall be reduced by 10 percent.

ITEM 34. Amend rule 875—32.12(92) as follows:

875—32.12(92) Civil penalty procedures.

32.12(1) *Notice of civil penalty.* The ~~commissioner~~ director shall serve a notice of proposed civil penalty by certified mail or in a manner consistent with service of original notice under the Iowa Rules of Civil Procedure. There shall be a 15-day grace period before issuing the notice. The notice shall include the following:

a. A statement that the notice proposes a civil penalty assessment for violation of child labor laws.

b. Descriptions of the alleged violations including the provisions allegedly violated, the number of violations, and the proposed penalties.

c. A statement that the employer has the right to request a hearing by filing a notice of contest with the ~~labor commissioner~~ director within 15 working days from the receipt of the notice of proposed civil penalty and that if a notice of contest is not timely filed, the proposed civil penalty will become final agency action.

d. A reference to the applicable procedural provisions.

32.12(2) *Notice of contest.* The civil penalty proposed by the ~~labor commissioner~~ director shall become final agency action if the employer does not timely file a notice of contest. The filing date for a timely notice of contest shall be within 15 working days of the date the notice of proposed civil penalty was received by the employer. The notice of contest shall include the name, address, and telephone number of the employer's representative. If a notice of contest is filed by fax, the original shall be mailed to the ~~labor commissioner~~ director.

32.12(3) No change.

This rule is intended to implement Iowa Code section 92.22.

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 875—Chapter 90
“Request for Extended Inspection Interval”

Iowa Code section authorizing rulemaking: 89.14(11) as enacted by 2023 Iowa Acts, House File 461
State or federal law(s) implemented by the rulemaking: 2023 Iowa Acts, House File 461

Public Hearing

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

September 19, 2023
9:30 to 10 a.m.

Conference Room 106
150 Des Moines Street
Des Moines, Iowa

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis. Written comments in response to this Regulatory Analysis must be received by the Labor Services Division no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Mitchell Mahan
Division of Labor Services
150 Des Moines Street
Des Moines, Iowa 50309
Email: mitchell.mahan@dia.iowa.gov

Purpose and Summary

This proposed rulemaking implements House File 461 regarding extensions of internal boiler and pressure vessel internal inspections. The proposed subrule clarifies what qualifies for an extension and how to get approval for the extension. The subrule facilitates granting the extension along with safety assurances.

Analysis of Impact

1. Persons affected by the proposed rulemaking:
 - Classes of persons that will bear the costs of the proposed rulemaking:
Owners of boilers with 100,000 pounds per hour or more capacity that also meet other requirements of Iowa Code section 89.3(4)“a” who request an inspection interval of more than two years will bear the costs.
 - Classes of persons that will benefit from the proposed rulemaking:
The same class of persons will benefit by extending the inspection interval, thus saving money by avoiding business shutdowns and the cost of internal inspection.
2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:
 - Quantitative description of impact:
The applicant must submit an application with existing documents to support it.
 - Qualitative description of impact:
The Department discerns no qualitative impact.
3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency:
Time will be required to review the application and give a decision. Over the long term, there will not be enough of these requests to be considered a substantial agency cost.
 - Anticipated effect on state revenues:
Businesses granted the extension should avoid shutdowns, increasing profitability and employment.
4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:
The cost is the time spent filling out an application and supplying existing documents. The benefit is assurance of safety and enhancing profitability by avoiding shutdowns due to internal inspections.
5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:
The application requires sufficient but not onerous safety verification. A less intrusive method would result in less effective safety measures and an increased possibility of harm.
6. Alternative methods considered by the agency:
- Description of any alternative methods that were seriously considered by the agency:
There was discussion of how many existing documents related to the boiler should be included in the application.
 - Reasons why alternative methods were rejected in favor of the proposed rulemaking:
The paperwork requirement is reasonable given the ease of supplying the documents and the potential harm caused by boiler failure.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The application requirements will be more than paid for by the extension of the inspection interval. The proposed subrule ensures a balance between the application requirements and necessary safety assurances to avoid catastrophic failures.

Text of Proposed Rulemaking

- ITEM 1. Adopt the following **new** subrule 90.6(10):
90.6(10) Request for extended inspection interval.
- a. Owners of objects covered under Iowa Code section 89.3(4) "a" may apply for an extended internal inspection interval of up to seven years.
 - b. The application for an extended internal inspection interval shall include the following information submitted to the director:

- (1) The name and contact information of the requestor.
- (2) The state identification number of the object.
- (3) The interval requested with supporting reasons.
- (4) An affidavit affirming the following:
 1. Compliance with the process safety management standard contained in 29 CFR §1910.119.
 2. The object is included as process safety management process equipment in the owner's process safety management program.
 3. The object meets the requirements contained in the National Board Inspection Code.
 4. The object is fit for service based on the year of fabrication and the estimated service life of the object as determined by Part 2 of the National Board Inspection Code.
 5. Practices have been implemented for managing consumable items and ancillary equipment of the object.
- (5) The following supporting records:
 1. Inspection records of the boiler and ancillary equipment for the prior five years.
 2. The most recent Report of Fitness for Service Assessment.
 3. Every Form R-1 Report of Repair and Form R-2 Report of Alterations for the prior five years.
- (6) A request for an informal conference, if desired.
 - c. The director will consider, among other things, whether the object meets the requirements contained in the National Board Inspection Code, whether the object is fit for service based on the year of fabrication, the estimated service life of the object as determined by Part 2 of the National Board Inspection Code, and whether the owner has implemented practices for managing consumable items and ancillary equipment of the object.
 - d. The director may grant an extended inspection interval.
 - (1) An extended inspection interval lasts until the next inspection, at which time the owner of the object may again apply for an extension.
 - (2) The owner shall promptly report to the department's boiler and pressure vessel unit any unscheduled shutdowns, significant incidents, near misses, and any other occurrences that might reasonably require reinspection before the extended date. Should the occurrence reasonably require it, or if any such event is not reported within ten days of occurrence, the director may revoke the extended inspection interval.
 - e. If the director does not intend to grant the extension, the director will give the applicant a Notice of Intent to Deny Extended Inspection Interval, granting ten days for the applicant to provide additional reasons and evidence why the interval should be extended.

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 701—Chapters 3, 7, 10, 19, 101, 108, 254, 300, 305, 504, 603, 700, 900
“Settlement Authority”

Iowa Code sections authorizing rulemaking: 421.5 and 421.14

State or federal law(s) implemented by the rulemaking: Iowa Code sections 17A.10, 421.5, 422.25(3), 422.28, 423.47, 450.94 and 452A.65

Public Hearing

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

September 13, 2023
9:30 to 10:30 a.m.

Room 430
Hoover State Office Building
Des Moines, Iowa
Virtual: meet.google.com/kma-gexe-wrk

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis. Written comments in response to this Regulatory Analysis must be received by the Department of Revenue no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Alana Stamas
Legal Services and Appeals Division
Iowa Department of Revenue
P.O. Box 14457
Des Moines, Iowa 50306-3457
Email: alana.stamas@iowa.gov

Purpose and Summary

The purpose of the proposed rulemaking is to implement division VI of 2023 Iowa Acts, Senate File 565. Division VI amends several Iowa Code sections related to settlement authority, including the authority to fully abate liabilities under certain circumstances. The Act also establishes new procedures related to estimated assessments. The statutory changes related to settlement authority in Iowa Code section 421.5 include a requirement that the Department adopt rules to administer the section. A new chapter is proposed to cover the various types of settlements that the Department may enter into. The proposed chapter defines key terms of the statute and describes procedures related to different types of settlements. The settlement authority is very discretionary. Adopting rules on this authority will provide taxpayers with information on the required procedures and limitations.

The sections of the Act related to estimated assessments did not include mandatory rulemaking authority. The Department did not find it necessary to adopt any new rules on the estimated assessment provisions of the statute at this time but did find that several rules that would otherwise have needed to be amended could instead be rescinded because they largely repeated the statute. One relevant rule, 701—700.11(422), was amended and significantly shortened as a result of the changes to ensure accuracy.

Analysis of Impact

1. Persons affected by the proposed rulemaking:
 - Classes of persons that will bear the costs of the proposed rulemaking:

The proposed rulemaking does not create costs for any classes of person. Applying for settlement relief is not required.

- Classes of persons that will benefit from the proposed rulemaking:

All taxpayers will benefit from the proposed rules on settlements and related amendments because the rules provide information on the form and manner in which persons may apply for different types of settlements. Settlement authority is discretionary, and the rules will provide guidance for taxpayers about what to expect and how to apply should they ever need to seek this discretionary relief. The rules will help taxpayers understand what type of application they should use for each set of circumstances and will help them understand the requirements for relief.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:

- Quantitative description of impact:

There is no known quantitative impact of the proposed rulemaking. The rules on settlement authority prescribe forms for seeking certain types of settlements, but those forms do not have an application fee or any other costs. Taxpayers will need to fill out the applications and provide required documentation. However, seeking a settlement is something that a taxpayer will do voluntarily; therefore, there are no costs required of any taxpayer. The Department did consider the possibility of not requiring an application for certain types of settlements but found that the application will be beneficial to taxpayers. The application and related rules will help taxpayers understand the information they must provide, which will reduce back-and-forth follow up investigations by the Department. The application and related rules will also help taxpayers understand their rights and limitations. The rules on the portion of the statute related to estimated billings do not have any quantitative impact.

- Qualitative description of impact:

The qualitative benefits of the rulemaking beyond what is already provided by the statute is the value of having rules that describe the program requirements, applicability, and limitations so that all taxpayers have access to the information in rules.

3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency:

There are no costs to the State beyond what was anticipated due to the change in law. The Department was already in the process of developing updates to its modernized tax management system to intake settlement applications to provide improved customer service to taxpayers. Staffing needs for this work will not be affected by the rules beyond how they are already affected by the statute.

- Anticipated effect on state revenues:

There is no effect on state revenues beyond what was anticipated due to the change in law.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

The costs of inaction would be failing to comply with the statute's mandate that the Department write rules on this settlement authority as well as failing to update outdated rules. The benefits of the rulemaking are providing taxpayers with information about the settlement process, requirements, and limitations and providing updated rules for accuracy.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

The proposed rulemaking is not costly or intrusive. The Department carefully considered what information would be important to articulate in the rules and what could be covered in the applications and other forms of guidance when preparing this rulemaking. The Department considered the costs and benefits of having application forms for these processes and concluded that the application would help guide taxpayers to provide critical information to aid the Department in its decision making.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:

Because the statute mandated rulemaking, the Department did not consider proceeding without rules. As stated above, the Department did think carefully about what information was important to include in rules to provide guidance to taxpayers.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking:

Proceeding without rules would have put the Department out of compliance with the statute and would have harmed taxpayers by limiting their access to information about the program to only the application and Department website without the benefit of public notice and comment on a rulemaking.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The rulemaking does not have a substantial impact on small business. The rules describe types of settlements that taxpayers may seek voluntarily and the form and manner in which to do so. The rules are the same for individuals and for businesses of different sizes.

Text of Proposed Rulemaking

ITEM 1. Rescind and reserve **701—Chapter 3**.

ITEM 2. Amend subrule 7.11(5) as follows:

7.11(5) Settlements. Settlement proposals may be submitted to the department employee assigned to the appeal or through GovConnectIowa using the manage appeal feature. Only the director, the deputy director, or the division administrator of the legal services and appeals division may approve and sign settlements of appeals. If a settlement is reached during informal procedures, a closing order stating that a settlement was reached by the parties and that the case is terminated shall be issued by the director and provided to all parties.

ITEM 3. Amend rule 701—7.11(17A), parenthetical implementation statute, as follows:

701—7.11(17A,421) Informal stage of the appeals process.

ITEM 4. Amend rule **701—7.11(17A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~section~~ sections 17A.10 and 421.5.

ITEM 5. Rescind and reserve rule **701—7.31(421)**.

ITEM 6. Amend subrule 10.3(2) as follows:

10.3(2) Interest on unpaid tax. Interest due on unpaid tax is not a penalty, but rather it is compensation to the government for the period the government was deprived of the use of money. ~~Therefore, interest~~ Interest due cannot be waived except in accordance with the settlement authority

described in Iowa Code sections 421.5 and 17A.10. *Viek v. Phinney*, 414 F.2d 444, 448 (5th CA 1969); *Time, Inc. v. United States*, 226 F.Supp. 680, 686 (S.D. N.Y. 1964); *In Re Jeffco Power Systems*, Dep't of Revenue Hearing Officer decision, Docket No. 77-9-6A-A (1978); *Waterloo Courier, Inc. v. Iowa Department of Revenue and Finance*, Case No. LACV081252, Black Hawk County District Court, December 30, 1999.

ITEM 7. Amend rule 701—10.3(422,423,450,452A), parenthetical implementation statute, as follows:

701—10.3(421,422,423,450,452A) Interest on refunds and unpaid tax.

ITEM 8. Amend rule **701—10.3(422,423,450,452A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 421.5, 422.25(3), 422.28, 423.47, 450.94 and 452A.65.

ITEM 9. Adopt the following **new** 701—Chapter 19:

CHAPTER 19

SETTLEMENTS—COMPROMISES AND ABATEMENTS OF TAX, PENALTY, OR INTEREST

701—19.1(421) Settlements. Pursuant to Iowa Code section 421.5, in addition to the authority granted to the department pursuant to Iowa Code section 17A.10 and notwithstanding Iowa Code section 7D.9, the department may, in its sole discretion, settle any taxes, penalties, or interest. A settlement may be a compromise or full abatement of any amount in dispute.

701—19.2(421) Amounts qualifying for settlement. To be eligible for settlement under Iowa Code section 421.5, the amount must be of doubtful liability, doubtful collectability, or severe economic hardship or the settlement of the amount must promote effective tax administration. The decision whether to accept a settlement amount will be based on a taxpayer's facts and circumstances; verifiable documentation is required for all grounds.

19.2(1) Doubtful collectability. Doubt as to collectability may exist in any case where the taxpayer's assets and discretionary income may not satisfy the full amount of the liability after satisfying senior priority liabilities. An offer to settle based on doubt as to collectability may be considered acceptable if it is unlikely that the tax, penalty, and interest can be collected in full and the offer reasonably reflects the amount the department could collect through other means, including administrative and judicial collection remedies. This amount is the reasonable collection potential of a case. In determining the reasonable collection potential of a case, the department will take into account the taxpayer's verifiable reasonable basic living expenses. In some cases, the department may accept an offer of less than the reasonable collection potential of a case if there are special circumstances.

19.2(2) Severe economic hardship. The department may settle where it determines that, although collection in full could be achieved, collection of the full amount would cause the taxpayer severe economic hardship. Severe economic hardship is defined as the inability to pay reasonable basic living expenses. An offer to settle based on economic hardship may be considered acceptable when, even though the tax, penalty, and interest could be collected in full, the amount offered reflects the amount the department can collect without causing the taxpayer severe economic hardship.

19.2(3) Doubtful liability. A doubtful liability may exist where there is a significant doubt as to the existence or amount of the correct tax liability under the law. A doubtful liability does not exist where the liability has been established by a final court judgment or administrative ruling or final order of the department concerning the existence or amount of the liability. An offer to settle a doubtful liability may be considered acceptable if it reasonably reflects the likelihood the department could expect to collect through litigation. This analysis may include consideration of the hazards and costs of litigation that would be involved if the liability were litigated. The evaluation of the hazards and costs of litigation is not an exact science and is within the discretion of the department.

19.2(4) *Promote effective tax administration.* The department may settle to promote effective tax administration where compelling public policy or equity considerations identified by the taxpayer provide a sufficient basis for settling the liability that is equitable under the particular facts and circumstances of the case. Settlements pursuant to this subrule may be justified only where, due to exceptional circumstances, collection of the full liability may undermine public confidence that the tax laws are being administered in a fair and equitable manner. The taxpayer will be expected to demonstrate circumstances that justify settlement even though a similarly situated taxpayer may have paid the liability in full. The department may settle cases where doing so will promote voluntary compliance with the law. The department may decline a settlement for reasons promoting effective tax administration if the settlement of the liability would undermine compliance by taxpayers with the tax laws.

701—19.3(421) Settlement procedures and limitations, generally.

19.3(1) *Whether to seek a settlement.* When determining whether to seek a settlement, a taxpayer should first consider whether a settlement is necessary. Nothing in this chapter is intended to preclude a taxpayer who misses the time provided by law to appeal a notice of assessment from paying the amount due, filing a refund claim, and contesting any denial of that refund claim as described in Iowa Code section 421.60(2) “h.” If a taxpayer has not received a billing but has information that would adjust the liability down, the appropriate remedy is to file an amended return within the statute of limitations. If a taxpayer has received an estimated assessment and is within three years of when the assessment was issued, the taxpayer should file a return. If a taxpayer has received an assessment and is within the time period to file an appeal, it is proper to file an appeal rather than a settlement request. If a taxpayer does not dispute the liability, but is unable to pay the liability due to financial hardship, the taxpayer should submit an offer in compromise application.

19.3(2) *Which type of settlement to seek.* Different types of settlements require different forms and procedures. Procedures for abatement, offer in compromise, and voluntary disclosure agreements are described in specific rules below. For matters currently under appeal pursuant to 701—Chapter 7, settlement requests must be submitted to the appeals section of the legal services and appeals division in accordance with 701—subrule 7.11(5). For matters currently under audit, settlement requests must be submitted to the department employee assigned to the audit.

19.3(3) *Who may authorize a department settlement.* Only the director, the deputy director, or the division administrator of the legal services and appeals division may approve and sign settlements under this chapter unless otherwise specified in rule or designated by the director.

19.3(4) *Discretionary nature of settlements.* There is no right to appeal an abatement denial, offer in compromise denial, or other settlement decision by the department under 701—Chapter 7. As described in Iowa Code section 421.5, a taxpayer shall not have the right to a settlement of any tax, penalty, or interest liability under this chapter or Iowa Code section 421.5. Any determination shall be discretionary and shall be final and conclusive except in the case of fraud or mutual mistake of material fact or as otherwise stated in a written settlement agreement between the taxpayer and the department.

701—19.4(421) Applications for abatement.

19.4(1) *When to file.* Abatement is intended to be a possible remedy for taxpayers who have received a billing or refund denial letter and have information that could lead to a reduction in the liability, but failed to file a timely appeal. Grounds for abatement include doubt as to liability and promoting effective tax administration.

19.4(2) *How to file an application.* To apply, a taxpayer must submit an application for abatement in the department’s prescribed paper or electronic format. The application can be submitted through GovConnectIowa or by using the form available on the department’s website and following the submission instructions on the form.

19.4(3) *Required information.* A request for abatement must be submitted on the department’s form. The form must be fully completed and properly signed.

19.4(4) *Review of requests.*

- a. After the application has been submitted, it will be reviewed by department staff.
- b. Additional information may be requested to assist the department in its review.
- c. A letter will be issued to the applicant notifying the applicant of the decision to grant, deny or partially grant the abatement request. The department's decision on an abatement application will only be contained in a formal determination letter.
- d. Applicants whose applications are granted in part will receive an agreement describing the terms of the partially granted abatement request and must sign and return that agreement to the department in order to receive the partially granted abatement.
- e. Decisions to accept an abatement request in full or in part for doubt as to liability may be approved by the bureau chief of the compliance section of the tax management division or another staff member designated by the director.
- f. Decisions to accept an abatement request to promote effective tax administration may only be approved by the director, the deputy director, or the division administrator of the legal services and appeals division.

19.4(5) Limitations. The department will accept applications for abatement during the appeal period but will not review such applications until the appeal period has passed. The department will generally not refund amounts already paid in response to an application for abatement. Some exceptions may include the following circumstances:

- a. The application is received within three years after the return related to the application for abatement was due or within one year after the payment related to the application for abatement was made, whichever is later.
- b. The application is received within one year of the final determination date of any final federal adjustment arising from an internal revenue service audit or other similar action by the internal review service with respect to the particular tax year at issue in the application.
- c. Payments were received in violation of Title 11 of the United States Code.
- d. Exceptional circumstances demonstrate that a refund would promote effective tax administration as described in subrule 19.2(4).

701—19.5(421) Offers in compromise.

19.5(1) When to file. An offer in compromise packet should be used to apply for relief based on doubtful collectability or severe economic hardship.

19.5(2) How to submit a packet. To apply, a taxpayer must submit an offer in compromise packet in the department's prescribed paper or electronic format. An offer in compromise packet can be submitted through GovConnectIowa or by using the form available on the department's website and following the submission instructions on the form.

19.5(3) Required information. An offer in compromise must be submitted using the department's offer in compromise packet.

19.5(4) Review of requests.

- a. After the packet has been submitted, it will be reviewed by department staff.
- b. Additional information may be requested to assist the department in its review.
- c. A letter will be issued to the applicant notifying the applicant of the decision to grant, deny or partially grant the offer in compromise request. The department's decision on an offer in compromise request will only be contained in a formal determination letter.
- d. Applicants whose applications are granted in part will receive an agreement describing the terms of the partially granted offer in compromise request and must sign and return that agreement to the department in order to receive the partially granted offer in compromise.
- e. Decisions to enter into an offer in compromise must be approved by the bureau chief of the central collections unit, the director, the deputy director, the division administrator of the legal services and appeals division, or another staff member designated by the director.

19.5(5) Limitations. The department will not review offer in compromise applications until a liability is at least one year old. Premature applications will be denied. Denial on this basis does not prevent the taxpayer from reapplying at a later date.

701—19.6(421) Voluntary disclosure agreements.

19.6(1) *When to file.* Any person who is subject to Iowa tax or tax collection responsibilities may be eligible for the voluntary disclosure program. Being subject to Iowa tax may occur when a person has Iowa source income, business activities, or representatives or other presence in Iowa. Certain activities by such persons may create Iowa tax return filing requirements for Iowa source income. In addition, activities may also result in tax liabilities that are past due and owing.

19.6(2) *Purpose of the voluntary disclosure program.* The purpose of the voluntary disclosure program is to promote effective tax administration through voluntary compliance by encouraging unregistered business entities and persons to voluntarily contact the department regarding unreported Iowa source income or other Iowa taxes described in subrule 19.6(4).

19.6(3) *Anonymity.* A person or the person's representative may initially contact the department on an anonymous basis. Anonymity of the taxpayer can be maintained until the voluntary disclosure agreement is executed by the taxpayer and the department. The voluntary disclosure program may be used by the department and the taxpayer to report previous periods of Iowa source income and to settle outstanding tax, penalty and interest liabilities, but it must also ensure future tax compliance by the taxpayer.

19.6(4) *Type of taxes eligible.* Only taxes, penalties, and interest related to the following tax types are eligible for settlement under the voluntary disclosure program: corporate income tax, franchise tax, fiduciary income tax, withholding income tax, individual income tax, composite return tax, local option school district income surtax, state sales tax, state use tax, fuel taxes, cigarette and tobacco taxes, local option tax, state and local hotel and motel taxes, automobile rental excise tax, equipment excise tax, water service excise tax, and the prepaid wireless 911 surcharge.

19.6(5) *Eligibility of the taxpayer.* The department has discretion to determine who is eligible for participation in the voluntary disclosure program. In making the determination, the department may consider the following factors:

- a. The person must be subject to Iowa tax on Iowa source income or have Iowa tax collection responsibilities;
- b. The person must have tax due;
- c. The person must not currently be under audit or examination by the department or under criminal investigation by the department;
- d. The person must not have had any prior contact with the department or a representative of the department that could lead to audit or assessment associated with the tax types or tax periods sought to be addressed under the program;
- e. The type and extent of activities resulting in Iowa source income;
- f. Failure to report the Iowa source income or pay any liability was not due to fraud, intentional misrepresentation, an intent to evade tax, or willful disregard of Iowa tax laws; and
- g. Any other factors which are relevant to the particular situation.

19.6(6) *How to file an application.*

a. *Required format.* To apply, a taxpayer must submit an application in the department's prescribed paper or electronic format. A voluntary disclosure application can be submitted through GovConnectIowa or by using the form available on the department's website and following the submission instructions on the form.

b. *Required information.* A voluntary disclosure application must be submitted using the department's form.

c. *Review of the application.*

- (1) After the application is submitted, it will be reviewed by department staff.
- (2) Additional information may be requested to assist the department in its review.
- (3) The department will notify an applicant in writing regarding whether the applicant's application for participation in the program is accepted or rejected.

19.6(7) *Terms of the voluntary disclosure agreement.*

a. *Discretion.* The department has the discretion to settle any outstanding Iowa tax, penalty, and interest liabilities of the eligible applicant. Settlement terms are on a case-by-case basis. Items

considered by the department in determining the settlement terms include: the type of tax, the tax periods at issue, the reason for noncompliance, whether the tax is deemed to be held in trust for the state of Iowa, the types of activities resulting in the tax, the frequency of the activities that resulted in the tax, and any other matters which are relevant to the particular situation.

b. Maximum scope of audit. If a taxpayer initiates the contact with the department and is eligible for the voluntary disclosure program and complies with the agreement terms, the maximum prior years for which the department will generally audit and pursue settlement and collection will be five years, absent an intent to defraud, the making of material misrepresentations of fact, or an intent to evade tax.

c. Future filing requirements. All voluntary disclosure agreements must require that the applicant file future Iowa tax returns, unless the activity by the applicant resulting in the Iowa source income has changed or there has been a change in the law, rules, or court cases that dictate a different result.

d. Audit and assessment rights. The department reserves the right to audit all returns and other documents submitted by the applicant or a third party to verify the facts and whether the terms of the voluntary disclosure agreement have been met. The department may audit information submitted by the applicant at any time within the allowed statutory limitation period. The department may also assess any tax, penalty, and interest found to be due in addition to the amount of original tax reported. The statute of limitations for assessment and statute of limitations for refunds begin to run as provided by law.

19.6(8) Commencement of the voluntary disclosure agreement. The voluntary agreement commences on the date the voluntary disclosure agreement is fully executed by all parties or another date specified by the agreement. Execution of the agreement is complete when the agreement is executed by the taxpayer or taxpayers and the bureau chief of the compliance section of the tax management division or another staff member designated by the director. Prior to the execution of the voluntary disclosure agreement by the taxpayer and the department, the taxpayer is not protected from the department's regular audit process if the identity of the taxpayer, as an applicant, is unknown to the department. However, if the department has knowledge of the taxpayer's identity, as an applicant, the department will not take audit action against the taxpayer during the voluntary disclosure process. If a voluntary disclosure agreement is not reached, the department may assess tax, penalty, and interest as provided by law at the time the identity of the applicant becomes known to the department.

19.6(9) Voiding a voluntary disclosure agreement.

a. Authority. The department has the authority to declare a voluntary disclosure agreement null and void subsequent to the execution of the agreement. The department may void the contractual agreement if the department determines that a misrepresentation of a material fact was made by the person or a third party representing the person to the department. The department may also void a voluntary disclosure agreement if the department determines any of the following has occurred:

- (1) The person does not submit information requested by the department within the time period specified by the department, including any extensions granted by the department;
- (2) The person fails to file future Iowa returns as agreed to in the voluntary disclosure agreement;
- (3) The person does not pay the agreed settlement liability within the time period designated by the department, including any extensions of time that may be granted by the department;
- (4) The person does not remit all taxes imposed upon or collected by the person for all subsequent tax periods and all tax types that are subject to the voluntary disclosure agreement;
- (5) The person fails to prospectively comply with Iowa tax law. Whether the person has failed to prospectively comply with Iowa tax law is determined by the department on a case-by-case basis;
- (6) The person, based on a determination by the department, materially understates the person's tax liability; or
- (7) The person has made a material breach of the terms of the voluntary disclosure agreement.

b. Audit rights. Voiding of the agreement results in nonenforceability of the agreement by the applicant and allows the department to proceed to assess tax, penalty, and interest for that person's Iowa tax and tax collection responsibilities for all periods within the statute of limitations. If the applicant is justifiably rejected for the voluntary disclosure program or the agreement between the person and the department is declared by the department to be null and void, the department reserves the right to audit all returns or other documents submitted by the applicant or a third party on behalf of the applicant and

to make an assessment for all tax, penalty, and interest owed. If the voluntary disclosure agreement is voided or the application for the program is rejected and the department issues an assessment, the taxpayer may appeal the assessment pursuant to 701—Chapter 7. If the department does not issue an assessment, but does reject the application or voids the agreement, such action is not subject to appeal under 701—Chapter 7 but is considered to be “other agency action.”

19.6(10) Partnerships, partners, S corporations, shareholders in S corporations, trusts, and trust beneficiaries. Once the department has initiated an audit or investigation of any type of partnership, partners of the partnership, S corporations, a shareholder in an S corporation, a trust, or trust beneficiaries, the department is deemed to have initiated an audit or investigation of the entity and of all those who receive Iowa source income from or have an interest in such an entity for purposes of eligibility for participation in the voluntary disclosure program.

19.6(11) Transfer or assignment. The terms of the voluntary disclosure agreement are valid and enforceable by and against all parties, including their transferees and assignees.

These rules are intended to implement Iowa Code sections 421.5 and 421.17.

ITEM 10. Amend rule 701—101.8(437A) as follows:

701—101.8(437A) Abatement of tax. The abatement provisions of ~~rule 701—7.31(421)~~ 701—Chapter 19 are applicable to replacement tax. In the event that the taxpayer files a request for abatement ~~with the director~~, the appropriate county treasurer shall be notified. The ~~director's department's~~ decision on the abatement request shall be sent to the taxpayer and the appropriate county treasurer.

ITEM 11. Amend rule 701—101.21(437A) as follows:

701—101.21(437A) Abatement of tax. The abatement provisions of ~~rule 701—7.31(421)~~ 701—Chapter 19 are applicable to the statewide property tax.

ITEM 12. Amend rule 701—108.8(437B) as follows:

701—108.8(437B) Abatement of tax. The abatement provisions of ~~rule 701—7.31(421)~~ 701—Chapter 19 are applicable to replacement tax. In the event that the taxpayer files a request for abatement with the ~~director~~ department, the appropriate county treasurer shall be notified. The ~~director's department's~~ decision on the abatement request shall be sent to the taxpayer and the appropriate county treasurer.

ITEM 13. Amend rule 701—108.20(437B) as follows:

701—108.20(437B) Abatement of tax. The abatement provisions of ~~rule 701—7.31(421)~~ 701—Chapter 19 are applicable to the statewide property tax.

ITEM 14. Rescind and reserve rule **701—254.11(453A)**.

ITEM 15. Rescind and reserve rule **701—300.11(422)**.

ITEM 16. Rescind and reserve rule **701—305.5(422)**.

ITEM 17. Rescind and reserve rule **701—504.4(421)**.

ITEM 18. Rescind and reserve rule **701—504.5(422)**.

ITEM 19. Rescind and reserve rule **701—603.4(421)**.

ITEM 20. Rescind and reserve rule **701—603.5(422)**.

ITEM 21. Amend rule 701—700.11(422) as follows:

701—700.11(422) Appeals to the director. ~~An estate or trust has the right to appeal to the director for a revision of an assessment for additional tax due, the denial or reduction of a claim for refund, the denial of a request for a waiver of a penalty and the~~ The denial of a request for an income tax certificate of acquittance may be appealed. ~~The beneficiary of an estate or trust has the right to appeal a determination of the correct amount of income distributed and a determination of the correct allocation of deductions,~~

credits, losses and expenses between the estate or trust and the beneficiary. The personal representative of an estate and the trustee of a trust have the right to appeal a determination of personal liability for income taxes required to be paid or withheld and for a penalty personally assessed. An appeal to the director must be in writing and must be made within 60 days of the notice of assessment and the other matters which are subject to appeal or for assessments issued on or after January 1, 1995, if the beneficiary of an estate or trust, the personal representative of an estate, or the trustee of a trust fails to timely appeal a notice of assessment, the person may pay the entire assessment and file a refund claim within the period provided by law for filing such claims denial. 701—Chapter 7 shall govern appeals to the director. See specifically rules ~~701—7.8(17A) to 701—7.22(17A)~~ governing taxpayer protests.

This rule is intended to implement Iowa Code chapter 17A and sections 421.60 and 422.28.

ITEM 22. Rescind and reserve rule ~~701—900.4(450)~~.

ITEM 23. Amend subrule 900.8(18) as follows:

900.8(18) Appeals. ~~Rule 701—86.4(450)~~ 701—Chapter 7 providing for an appeal to the director and a subsequent appeal to district court under the Iowa administrative procedure Act for disputes involving the inheritance tax imposed by Iowa Code chapter 450 shall also be the rule for appeal for disputes concerning special use valuation and the additional inheritance tax imposed by Iowa Code chapter 450B.

ITEM 24. Amend subparagraph **900.9(2)“f”(1)** as follows:

(1) Real estate. If the department, the estate and the persons succeeding to the decedent's property have not reached an agreement as to the value of real estate under 86.9(2)“e,” the market value for inheritance tax purposes will be established by the appraisal proceedings specified in Iowa Code sections 450.27 to 450.36. For the purposes of appraisal, “real estate or real property” means the land and appurtenances, including structures affixed thereto. Use of the inheritance tax appraisers to determine value for other purposes such as, but not limited to, determining the share of the surviving spouse in the estate or for determining the fair market value of real estate for the purposes of sale, is not controlling in determining values for inheritance tax purposes. *In re Estate of Giffen*, 166 N.W.2d 800 (Iowa 1969); *In re Estate of Lorimor*, 216 N.W.2d 349 (Iowa 1974). Appraisals of real estate must be made in fee simple including land, all appurtenances and structures affixed to the real estate. Discounts in the value of real estate are not to be considered in the valuation of real property for the purposes of an appraisal. Such discounts in valuation are to be resolved by mutual agreement through informal procedures between the personal representative of the estate and the department. If an agreement between the personal representative of the estate and the department cannot be obtained, then the valuation placed on the property by the department may be appealed by the personal representative of the estate pursuant to the procedures set forth in ~~rule 701—86.4(450)~~ 701—Chapter 7. If either the department or the estate does not agree with the results of an appraisal that is conducted pursuant to Iowa Code sections 450.27 through 450.36, either the department or the estate may file an objection to the appraisal pursuant to Iowa Code section 450.31. See 701—subrule 86.9(2) for additional factors to assist in the determination of fair market value of real property.

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 199—Chapter 1
“Organization and Operation”

Iowa Code sections authorizing rulemaking: 474.5 and 476.2

State or federal law(s) implemented by the rulemaking: Iowa Code sections 17A.3, 68B.4, 474.1, 474.5, 474.10, 476.1, 476.2, 476.31, and 546.7

Public Hearing

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

September 26, 2023
9 a.m.

Board Hearing Room
1375 East Court Avenue
Des Moines, Iowa

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis. Written comments in response to this Regulatory Analysis must be received by the Iowa Utilities Board (IUB) no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

IT Support
Iowa Utilities Board
Phone: 515.725.7300
Email: ITSupport@iub.iowa.gov

Purpose and Summary

The proposed rules in Chapter 1 provide the public with information regarding the organization of the IUB, how to contact the IUB, how to request public documents, what standards must be met to obtain a waiver of IUB rules, and how to request that information provided to the IUB be held as confidential.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

- Classes of persons that will bear the costs of the proposed rulemaking:

There are no costs related to the proposed rulemaking except for costs to those members of the public requesting paper copies of public documents, those persons who decide to hire an attorney to file a request that information provided to the IUB be held as confidential, and those persons who file requesting a waiver of IUB rules.

- Classes of persons that will benefit from the proposed rulemaking:

All persons who have business with the IUB will benefit by having the information necessary to contact the IUB, understanding the organization of the IUB, understanding what criteria must be met to obtain a waiver of IUB rules, and having procedures in place for requesting public documents and for requesting that information provided to the IUB be held as confidential.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:

- Quantitative description of impact:

There are no costs associated with this rulemaking except those costs voluntarily assumed by a person requesting paper copies of public documents, hiring an attorney to file a request that information provided to the IUB be held as confidential, or filing for a waiver of IUB rules.

- Qualitative description of impact:
The qualitative impact is as described above.

3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency:
There are no costs to the State resulting from the proposed amendments to the rules in this chapter. Requests for public records, requests to hold information as confidential, and requests for a waiver of IUB rules are handled as part of the regular duties of IUB staff.

- Anticipated effect on state revenues:
There is no anticipated effect on state revenues resulting from the proposed amendments to the rules in this chapter.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

Without the rules in this chapter, the public would not have one location for the information about how to contact the IUB, how to request public records, the criteria for obtaining a waiver, or how to request that information be held as confidential. The latter two requests would have to be addressed on a case-by-case basis without the rules, and that could lead to inconsistent treatment and additional costs to the person making the request.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

The IUB has not found a more efficient or less costly method of providing this information.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:
The only alternative to updating the rules in this chapter considered by the IUB was putting a waiver rule in each chapter.
- Reasons why alternative methods were rejected in favor of the proposed rulemaking:
The IUB considered it more efficient to have one general chapter rather than adopting a separate waiver rule in each chapter with identical information.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The rules in Chapter 1 do not have a substantial impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 199—Chapter 1 and adopt the following **new** chapter in lieu thereof:

CHAPTER 1
ORGANIZATION AND OPERATION

199—1.1(17A,474) Purpose. This chapter describes the organization and operation of the Iowa utilities board (hereinafter referred to as board).

199—1.2(17A,474) Scope of rules. These rules apply to all matters before the board.

199—1.3(17A,474,476) Waivers.

1.3(1) In response to a request, the board may grant a waiver from a rule adopted by the board, in whole or in part, as applied to a specific set of circumstances, if the board finds, based on clear and convincing evidence, that the waiver request meets the requirements of Iowa Code section 17A.9A(2).

1.3(2) The board may condition the grant of the waiver on such reasonable conditions as appropriate to achieve the objectives of the particular rule in question. The board may at any time cancel a waiver upon appropriate notice and opportunity for hearing.

199—1.4(17A,474) Duties of the board. The board regulates the services and rates of certain electric, gas, telephone, water, and sanitary sewer and storm water drainage utilities pursuant to Iowa Code chapter 476. The board also has jurisdiction over certification of electric power generators pursuant to Iowa Code chapter 476A, franchises for cable and video service providers pursuant to Iowa Code chapter 477A, dual party relay service pursuant to Iowa Code chapter 477C, construction and safety of electric transmission lines pursuant to Iowa Code chapter 478, and the construction and operation of pipelines and underground storage pursuant to Iowa Code chapters 479 and 479B.

199—1.5(17A,474) Organization. The board consists of the three-member board, the technical and administrative staff, and the general counsel. The three-member board is the policymaking body, and the chair serves as the administrator of the board. As administrator, the chair is responsible for all administrative functions and decisions.

199—1.6(17A,474) Matters applicable to all proceedings.

1.6(1) Communications. All communications to the board, other than those filed through the board's electronic filing system, may be addressed to the Iowa Utilities Board, 1375 East Court Avenue, Des Moines, Iowa 50319-0069, unless otherwise specifically directed. Unless otherwise specifically provided, all communications and documents are officially filed upon receipt and acceptance at the office of the board.

1.6(2) Office hours. Office hours are 8 a.m. to 4:30 p.m. Monday through Friday. Offices are closed on Saturdays and Sundays and on official state holidays designated in accordance with state law. Time provisions for electronic filing are found in rule 199—14.9(17A,476).

199—1.7(22) Public information and inspection of records.

1.7(1) Public information. Any interested person may examine all public records of the board by written request or in person at the board offices. Public records may be examined at the board office only during regular business hours, 8 a.m. to 4:30 p.m. Monday through Friday, excluding legal holidays. Public records in docketed matters may be examined at any time using the board's electronic filing system. Unless otherwise provided by law, all public records, other than confidential records, maintained by the board will be made available for public inspection.

1.7(2) Definitions.

“*Confidential records*” means records not available for public inspection under state law.

“*Personally identifiable information*” means information about or pertaining to an individual, specifically including the following unique identifiers when combined with an individual's name: social security number or a financial account number (checking, savings, or share account number or credit,

debit, or charge card number). “Personally identifiable information” does not include information pertaining to corporations.

“*Public records*” means records of or belonging to the board that are necessary to the discharge of its duties.

1.7(3) *Records not routinely available for public inspection.* The following records are not routinely available for public inspection. The records are listed in this subrule by category, according to the statutory basis for withholding them from inspection.

a. Materials that are specifically exempted from disclosure by statute and that the board may in its discretion withhold from public inspection. Any person may request permission to inspect particular records withheld from inspection under this subrule. At the time of the request, the board will notify all interested parties. If the request is to review materials under subparagraphs 1.7(3)“a”(1) and 1.7(3)“a”(3), the board will withhold the materials from public inspection for 14 days to allow the party who submitted the materials an opportunity to seek injunctive relief. Records the board is authorized to withhold from public inspection under Iowa law in its discretion include, but are not limited to, the following:

- (1) Trade secrets recognized and protected as such by law (Iowa Code section 22.7).
- (2) Records that represent and constitute the work product of an attorney that are related to litigation or claim made by or against a public body (Iowa Code section 22.7).
- (3) Reports made to the board that, if released, would give advantage to competitors and serve no public purpose (Iowa Code section 22.7).

(4) Personal information in confidential personnel records of the board (Iowa Code section 22.7).

(5) Communications not required by law, rule, or procedure that are made to a government body or to any of its employees by identified persons outside of government, to the extent that the government body receiving those communications could reasonably believe that those persons would be discouraged from making them to the government body if they were available for general public examination. Notwithstanding this provision:

1. The communication is a public record to the extent the person outside of government making that communication consents to its treatment as a public record.

2. Information contained in the communication is a public record to the extent it can be disclosed without directly or indirectly indicating the identity of the person outside of government making it or enabling others to ascertain the identity of that person.

3. Information contained in the communication is a public record to the extent it indicates the date, time, specific location, and immediate facts and circumstances surrounding the occurrence of a crime or other illegal act, except to the extent its disclosure would plainly and seriously jeopardize a continuing investigation or pose a clear and present danger to the safety of any person. In any action challenging the failure of the lawful custodian to disclose any particular information of the kind enumerated in this paragraph, the burden of proof is on the lawful custodian to demonstrate that the disclosure of that information would jeopardize such an investigation or would pose such a clear and present danger (Iowa Code section 22.7).

(6) Materials exempted from public inspection under any other provisions of law.

b. Materials that are specifically exempted from disclosure by statute and that the board is prohibited from making available for public inspection. Pursuant to Iowa Code section 422.20, the board withholds from public inspection tax records submitted to the board.

c. Materials exempted pursuant to requests deemed granted by the board. Requests to withhold from public inspection the materials and information listed in the subparagraphs below are deemed granted by the board pursuant to Iowa Code section 22.7(3) or 22.7(6), or both sections, provided that the confidential portions of the filings are identified as confidential and filed as provided in 199—Chapter 14 and an attorney for the company or corporate officer avers that the material or information satisfies the requirements in Iowa Code section 22.7(3) or 22.7(6), or both sections. The material or information filed pursuant to this paragraph will be deemed confidential upon the filer’s receipt of a notice of electronic filing without further review or acknowledgement by the board, and the material or information will be withheld from public inspection subject to the provisions of subparagraph 1.7(6)“b”(3).

- (1) Negotiated transportation rates and prices for natural gas supply.
- (2) Reservation charges for portfolio gas supply contracts.
- (3) Terms and prices for all hedging activity, including financial hedges and weather-related information.
- (4) Sales data by individual natural gas customer.
- (5) Natural gas purchase volumes by individual receipt point, by pipeline.
- (6) Specific gas costs included in interstate pipeline contracts and contracted volume quantities, invoices, commodity contracts, and individual commodity purchases and invoices.
- (7) Design day forecasting model reserve margin calculations for natural gas service.
- (8) Negotiated purchase prices for electric power, fuel, and transportation.
- (9) Electric customer-specific information.
- (10) Power supply bills in support of energy adjustment clause filings.
- (11) Network improvement and maintenance plans and related extensions and progress reports filed with the board pursuant to 199—Chapter 39.
- (12) Wireless coverage area maps depicting signal strength filed with the board pursuant to 199—Chapter 39.
- (13) Revenue recovery amounts and loop or line count data filed with the board pursuant to 199—Chapter 39.
- (14) Financial reports and loop or line count data included in rate floor data filed with the board pursuant to 199—Chapter 39.
- (15) Loop or line count data included in rate floor data updates filed with the board pursuant to 199—Chapter 39.
- (16) The financial records filed by applicants for certificates of convenience and necessity to provide competitive local exchange service.
- (17) The financial records, number of customers, and volumes filed by competitive natural gas providers in each company's annual report. The aggregate total sales volume is not granted confidential treatment by this subparagraph.
- (18) The financial information regarding affiliate transactions required for rate-regulated utilities. This information is subject to staff and legal review to ensure the information protected is similar to other information included in this subparagraph.

1.7(4) *Requests that materials or information submitted to the board be withheld from public inspection.* Any person submitting information or materials to the board may submit a request that part or all of the information or materials not be made available for public inspection pursuant to the following requirements. Requested confidential information as defined in Iowa R. Elec. P. 16.602 and 16.603 is to be redacted from the public filing.

a. Procedure. Confidential information will be separated from public information, and each applicable page will be identified as confidential.

b. Content of request. Each request will include a statement of the legal basis for withholding the materials from inspection and the facts to support the legal basis relied upon. Each statement will also include an affidavit executed by a corporate officer (or by an individual, if the requestor is not a business entity) with personal knowledge of the specific facts.

c. Compliance. If a request complies with the requirements of paragraphs 1.7(4) "a" and "b," the materials will be temporarily withheld from public inspection. The board will examine the information to determine whether the information should be afforded confidentiality. If the request is granted, the ruling will be placed in a public file in lieu of the materials withheld from public inspection.

d. Request denied. If a request for confidentiality is denied, the information will be held confidential for 14 days to allow the applicant an opportunity to seek injunctive relief. After the 14 days expire, the materials will be available for public inspection, unless the board is directed by a court to keep the information confidential.

1.7(5) *Procedures for the physical inspection of board records that are routinely available for public inspection.* The records in question will be reasonably described by the person requesting them to permit their location by staff personnel. Members of the public will not be given access to the area in which

records are kept and will not be permitted to search the files. Advance requests to have records available on a certain date may be made by telephone or by correspondence.

a. Search fees. An hourly fee may be charged for searching for requested records. The fee will be based upon the pay scale of the employee who makes the search. No search fee will be charged if the records are not located, the records are not made available for inspection, or the search does not exceed one-quarter hour in duration.

b. Written request. Written requests should list the telephone number (if any) of the person making the request and, for each document requested, should set out all available information that would assist in identifying and locating the document. The request should also set out the maximum search fee the person making the request is prepared to pay. If the maximum search fee is reached before all of the requested documents have been located and copied, the requesting person will be notified. When the requesting person requests that the board mail copies of the materials, postage and handling expenses should also be included.

c. Procedure for written request. The records will be produced for inspection at the earliest possible date following a request. Records should be inspected within seven days after notice is given that the records have been located and are available for inspection. After seven days, the records will be returned to storage and additional charges may be imposed for having to produce them again.

d. Copies. Copies of public records may be made in the board's records and information center.

1.7(6) Procedures for the inspection of board records that are not routinely available for public inspection. Board records that are not routinely available for public inspection may be requested.

a. Content of request. The request will include a description of the records requested.

b. Procedure. The board may take action on the request as follows:

- (1) Deny the request, if the board is prohibited from disclosing the records.
- (2) Redact any part of the document that the board is prohibited from disclosing.
- (3) Notify the interested persons, if the request is to inspect records not routinely available for public inspection under one or more of the aforementioned rules, and withhold the materials from public inspection for 14 days to allow the party who submitted the materials an opportunity to seek injunctive relief.

1.7(7) Procedures by which the filer of a confidential record may have a copy released to a named third party. A confidential record may be released to the filer or to a named third party designated by the filer with a request signed by the filer.

1.7(8) Advice and assistance. Individuals who have questions regarding the procedures contained in these rules may contact the board at the following address: Iowa Utilities Board, 1375 East Court Avenue, Des Moines, Iowa 50319-0069.

1.7(9) Data processing system. As required by Iowa Code section 22.11(1) "g," the board does not currently have a data processing system which matches, collates, or permits the comparison of personally identifiable information in one record system with personally identifiable information on another record system.

These rules are intended to implement Iowa Code sections 17A.3, 68B.4, 474.1, 474.5, 474.10, 476.1, 476.2, 476.31 and 546.7.

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 199—Chapter 3
“Rulemaking”

Iowa Code sections authorizing rulemaking: 17A.4 and 476.2
State or federal law(s) implemented by the rulemaking: Iowa Code section 17A.4

Public Hearing

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

October 4, 2023
9 a.m.

Board Hearing Room
1375 East Court Avenue
Des Moines, Iowa

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis. Written comments in response to this Regulatory Analysis must be received by the Iowa Utilities Board (IUB) no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

IT Support
Iowa Utilities Board
Phone: 515.725.7300
Email: ITSupport@iub.iowa.gov

Purpose and Summary

The purpose of this proposed chapter is to inform the public of the IUB’s practice and procedures in rulemaking proceedings.

Analysis of Impact

1. Persons affected by the proposed rulemaking:
 - Classes of persons that will bear the costs of the proposed rulemaking:
Persons participating in or initiating IUB rulemaking proceedings may incur costs associated with such activity, and the IUB will incur normal operating costs for those proceedings. However, the costs are more directly attributable to rulemaking itself as opposed to the rules in Chapter 3.
 - Classes of persons that will benefit from the proposed rulemaking:
Iowans, especially pro se Iowans, who wish to request IUB rulemaking action or who wish to participate in IUB rulemaking proceedings will benefit from the proposed rulemaking.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:
 - Quantitative description of impact:
These rules are intended to assist members of the public who wish to initiate or participate in IUB rulemaking proceedings by describing and detailing the rules governing such participation. While there may be costs incurred by the public in participating in IUB rulemaking proceedings, those costs are more directly caused by the nature and course of the underlying rulemaking proceeding.
 - Qualitative description of impact:
Chapter 3 has some level of qualitative impact because it assists Iowans who may wish to initiate or participate in an IUB rulemaking proceeding.

3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency:

Because Chapter 3 merely provides information, there are no costs to the public unless the public chooses to initiate or participate in an IUB rulemaking. Chapter 3 does not impose any additional costs to the IUB beyond the salary of the employees who work on IUB rulemakings, which are more directly the cause of underlying rulemaking as opposed to the Chapter 3 rules.

- Anticipated effect on state revenues:

The IUB does not anticipate an effect on state revenues.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

The agency believes that the benefits of providing information regarding the IUB rulemaking process outweigh any costs that Chapter 3 may indirectly impose. Inaction is not advised because it would disadvantage members of the public who wish to participate in IUB rulemaking proceedings but are not familiar with the Iowa Code chapter 17A rulemaking process.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

Because Chapter 3 imposes no direct costs, the IUB does not believe there is a less costly or intrusive method.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:

Inaction was considered by the IUB.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking:

As stated above, inaction is not advisable because there is value provided in informing the public about the IUB's rulemaking process and how to initiate a rulemaking request with the IUB.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The IUB does not believe Chapter 3 has an adverse impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 199—Chapter 3 and adopt the following new chapter in lieu thereof:

CHAPTER 3 RULEMAKING

199—3.1(17A,474,476) Purpose and scope.

3.1(1) Scope. These rules govern the practice and procedure in all rulemaking proceedings of the board.

3.1(2) Rules of construction. If any provision of a rule or the application of a rule to any person or circumstance is itself or through its enabling statute held invalid, the invalidity does not affect other provisions or applications of the rule that can be given effect without the invalid provision or application, and to this end the provisions of the rule are severable.

199—3.2(17A,474,476) Initial stakeholder input. In addition to seeking information by other methods, the board may solicit comments from the public on the subject matter of possible rulemaking by issuing an order through its electronic filing system or by causing notice of the subject matter to be published in the Iowa Administrative Bulletin, indicating where, when, and how persons may comment.

199—3.3(17A,474,476) Petition for adoption of rules.

3.3(1) Petitions. Any interested person may petition the board for the adoption, amendment, or repeal of a rule pursuant to Iowa Code section 17A.7.

3.3(2) Stakeholder comments. Other interested persons may file written comments containing data, views, or arguments concerning the petition within 20 days of the filing of the petition. Reply comments may be filed within 27 days of the filing of the petition. The board may allow additional time for filing comments and reply comments at its discretion.

199—3.4(17A,474,476) Commencement of proceedings. Rulemaking proceedings are commenced upon written order of the board.

199—3.5(17A,474,476) Rulemaking oral presentation.

3.5(1) Requests. If an oral presentation is not scheduled by the board, any interested person may file a request for an oral presentation.

3.5(2) Written appearance. Any interested person may participate in rulemaking oral presentations in person or by counsel.

3.5(3) Oral presentations. Participants in rulemaking oral presentations may submit exhibits and present oral statements of position, which may include data, views, comments, or arguments concerning the proposed adoption, amendment, or repeal of the rule. Oral statements are not made under oath and are not subject to cross-examination.

3.5(4) Comments and limitations. The board may, in its discretion, permit reply comments and request the filing of written comments subsequent to the adjournment of the oral presentation. The board may limit the time of any oral presentation and the length of any written presentation.

199—3.6(17A,474,476) Rulemaking decisions.

3.6(1) Adoption, amendment, or repeal. The board may, by written order, adopt, amend, or repeal the rule pursuant to the rulemaking proceeding, or dismiss the proceeding in accordance with Iowa Code section 17A.4. The board may, by order, specify the effective date of the adoption, amendment, or repeal of the rule.

3.6(2) Variance between adopted rule and proposed rule. The board may adopt a rule that differs from the rule proposed in the Notice of Intended Action.

3.6(3) Rulemaking statement. An interested person may request that the board issue a rulemaking statement pursuant to the requirements of Iowa Code section 17A.4(2).

These rules are intended to implement Iowa Code sections 17A.4 through 17A.7, 474.5, and 476.2.

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 199—Chapter 4
“Declaratory Orders”

Iowa Code sections authorizing rulemaking: 17A.3(1)“b,” 17A.9, and 476.2
State or federal law(s) implemented by the rulemaking: Iowa Code section 17A.9

Public Hearing

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

September 21, 2023
9 a.m.

Board Hearing Room
1375 East Court Avenue
Des Moines, Iowa

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis. Written comments in response to this Regulatory Analysis must be received by the Iowa Utilities Board no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

IT Support
Iowa Utilities Board
Phone: 515.725.7300
Email: ITSupport@iub.iowa.gov

Purpose and Summary

The purpose of this proposed rulemaking is to inform members of the public of their right to file a petition for declaratory order under Iowa Code section 17A.9 and to describe the Board’s declaratory order practice as required by Iowa Code section 17A.3(1)“b.”

Analysis of Impact

1. Persons affected by the proposed rulemaking:
 - Classes of persons that will bear the costs of the proposed rulemaking:
Chapter 4 may impose a cost to persons who wish to retain an attorney or consultant to file a petition for declaratory order with the Board.
 - Classes of persons that will benefit from the proposed rulemaking:
Iowans, especially pro se Iowans, who wish to request that the Board rule on a declaratory order will benefit from the proposed rulemaking.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:
 - Quantitative description of impact:
The Board provides rules for a number of different types of agency actions. Chapter 4 provides the filing information for declaratory orders, which most members of the public may not be familiar with in general. Since this is part of the everyday work to the Board, there is no additional impact to the Board, economic or otherwise. Thus, the impact would be on interested persons if they choose to hire an attorney or consultant to help with filing a petition for declaratory order. There are no costs to see the public information filed in the Board’s electronic filing system; however, there may be a time-cost component for new users.
 - Qualitative description of impact:

Chapter 4 has some level of qualitative impact because it assists Iowans who may wish to appear before the Board or may wish to request that the Board grant a petition for declaratory order. The chapter ensures that the public has the information necessary to be able to adequately bring forth a petition for declaratory order.

3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency:

There are no additional costs to any agency other than the normal everyday costs of operation of the Board.

- Anticipated effect on state revenues:

There is no anticipated effect on state revenues.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

Because Chapter 4 imposes no costs on the public, outside of retaining counsel or a consultant, and no costs on the agency (or any other agency) and because the public does benefit from the information contained within the chapter, the benefits of providing the information outweigh the costs.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

Because Chapter 4 imposes no costs, outside of those mentioned above, the agency does not believe there is a less costly or intrusive method.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:

Inaction was considered by the Board.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking:

Providing the information is valuable, especially to members of the public who may not be familiar with the process of filing a petition under Chapter 4 with the Board.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The Board does not believe that Chapter 4 has an adverse impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 199—Chapter 4 and adopt the following new chapter in lieu thereof:

CHAPTER 4
DECLARATORY ORDERS

199—4.1(17A) Petition for declaratory order. Any person may file a petition with the Iowa utilities board for a declaratory order as to the applicability to specified circumstances of a statute, rule, or order within the primary jurisdiction of the board. Except as otherwise expressly provided in this chapter, the rules of procedure applicable to a petition for a declaratory order are those set forth in 199—Chapter 7, the provisions for electronic filing are those set forth in 199—Chapter 14, and additional provisions applicable to a petition for declaratory order are established by Iowa Code section 17A.9.

4.1(1) A petition is deemed filed when it is received by the board.

4.1(2) A complete petition will be dated and signed by the petitioner, include the petitioner's appropriate contact information, and include the following information (a sample form of a petition for a declaratory order is available on the board's website at iub.iowa.gov):

a. The question or questions that petitioner wishes the board to determine, stated clearly and concisely;

b. A clear and concise statement of all relevant facts on which the ruling is requested, including the petitioner's interest in the issue;

c. A citation to and the relevant language of the statutes, rules, policies, decisions, or orders that are applicable or whose applicability is in question and any other relevant law;

d. The petitioner's proposed answers to the questions raised and a summary of the reasons urged by the petitioner in support of those answers, including a statement of the legal support for the petitioner's position;

e. A statement indicating whether the petitioner is currently a party to another proceeding involving the questions at issue and whether, to the petitioner's knowledge, those questions have been decided by, are pending determination by, or are under investigation by any governmental entity;

f. The names and addresses of other persons, or a description of any class of persons, known by the petitioner to be affected by or interested in the questions presented in the petition; and

g. A statement indicating whether the petitioner requests a meeting as provided for by rule 199—4.5(17A).

199—4.2(17A) Intervention. A person having an interest in the subject matter of a petition for a declaratory order may file with the board a petition for intervention pursuant to rule 199—7.13(17A,476) within 20 days of the filing of a petition for a declaratory order. The board may at its discretion entertain a late-filed petition for intervention. A complete petition for intervention in a proceeding on a petition for declaratory order will be dated, be signed by the prospective intervenor with that person's appropriate contact information, include the information set forth in rule 199—7.13(17A,476), and include the following:

1. The answers urged by the intervenor to the question or questions presented and a summary of the reasons urged in support of those answers, including a statement of the legal support for the intervenor's position;

2. A statement indicating whether the intervenor is currently a party to another proceeding involving the questions at issue and whether, to the intervenor's knowledge, those questions have been decided by, are pending determination by, or are under investigation by any government entity;

3. The names and addresses of other persons, or a description of any class of persons, known by the intervenor to be affected by or interested in the questions presented in the petition; and

4. Whether the intervenor consents to be bound by the determination of the matters presented in the declaratory order proceeding.

199—4.3(17A) Briefs. The petitioner or any intervenor may file a brief in support of that party's position. The board may request that the petitioner, intervenor, or any other person submit a brief concerning the questions raised.

199—4.4(17A) Service and filing of petitions and other documents. In a proceeding on a request for a declaratory order, except as otherwise provided by law, a party may file with the board a petition for declaratory order, petition for intervention, brief, or any other document in the manner provided in rule 199—14.16(17A,476) and at the same time serve it, in compliance with the requirements of 199—subrule 7.4(6) and rule 199—14.16(17A,476), upon each of the parties of record to the proceeding and on any person who, based upon a reasonable investigation, would be a necessary party to the proceeding under applicable substantive law and file with the board a list of all persons served.

199—4.5(17A) Informal meeting. Upon request by petitioner, the board will schedule an informal meeting between the petitioner, all intervenors, and the board, a member of the board, or a designated member of the staff of the board to discuss the questions identified in the petition. The board may solicit comments from any person on the questions raised.

199—4.6(17A) Refusal to issue order.

4.6(1) Grounds. The board will not issue a declaratory order that would substantially prejudice the rights of a person who would be a necessary party and who does not consent in writing to determination of the matter in a declaratory order proceeding. The board may refuse to issue a declaratory order on some or all of the questions raised for any of the following reasons:

- a.* The petitioner requests that the board determine whether a statute is unconstitutional on its face.
- b.* The petition does not contain facts sufficient to demonstrate that the petitioner will be aggrieved or adversely affected by the failure of the board to issue an order.
- c.* The board does not have jurisdiction over the questions presented in the petition.
- d.* The questions presented by the petition are also presented in a current rulemaking, contested case, or other agency or judicial proceeding that may definitively resolve them.
- e.* The questions presented by the petition would more properly be resolved in a different type of proceeding or by another body with jurisdiction over the matter.
- f.* The facts or questions presented in the petition are unclear, overbroad, insufficient, or otherwise inappropriate as a basis upon which to issue an order.
- g.* There is no need to issue an order because the questions raised in the petition have been settled due to a change in circumstances.
- h.* The petition is not based upon facts calculated to aid in the planning of future conduct but is, instead, based solely upon prior conduct in an effort to establish the effect of that conduct or to challenge an agency decision already made.
- i.* The petition requests a declaratory order that would necessarily determine the legal rights, duties, or responsibilities of other persons who have not joined in the petition, intervened separately, or filed a similar petition and whose position on the questions presented may fairly be presumed to be adverse to that of the petitioner.

4.6(2) Content and effect of refusal.

- a.* The board's refusal to issue a declaratory order will include a statement of the specific grounds for the refusal and constitutes final board action on the petition.
- b.* Refusal to issue a declaratory order pursuant to this rule does not preclude the filing of a new petition that seeks to remedy the grounds for the refusal to issue an order.

199—4.7(17A) Effect of a declaratory order.

4.7(1) The issuance of a declaratory order constitutes final agency action on the petition. A declaratory order is binding on the board, on the petitioner, on any intervenors who consent to be bound, and on any persons who would be necessary parties, who are served pursuant to rule 199—4.4(17A),

and who consent to be bound, in cases in which the relevant facts and the law involved are substantially indistinguishable from those on which the order was based. As to all other persons, a declaratory order serves only as precedent and is not binding on the board.

4.7(2) A declaratory order is effective upon the date of issuance.

These rules are intended to implement Iowa Code sections 17A.9 and 476.1.

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 199—Chapter 5
“Procedure for Determining the Competitiveness of a Communications Service or Facility”

Iowa Code section authorizing rulemaking: 476.1D

State or federal law(s) implemented by the rulemaking: Iowa Code chapter 476

Public Hearing

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

September 26, 2023
2 p.m.

Board Hearing Room
1375 East Court Avenue
Des Moines, Iowa

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis. Written comments in response to this Regulatory Analysis must be received by the Iowa Utilities Board no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

IT Support
Iowa Utilities Board
Phone: 515.725.7300
Email: ITSupport@iub.iowa.gov

Purpose and Summary

This chapter is proposed to be rescinded.

Analysis of Impact

1. Persons affected by the proposed rulemaking:
 - Classes of persons that will bear the costs of the proposed rulemaking:
Because Chapter 5 merely restates and references existing statutes, there are no costs to the public, the agency, or any other agency; rescinding the chapter will not disturb the Board’s authority in Iowa Code section 467.1D.
 - Classes of persons that will benefit from the proposed rulemaking:
Chapter 5 is proposed to be rescinded. The benefit of Chapter 5 is derived from statutory language, not from restatement in the rules.
2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:
 - Quantitative description of impact:
There is no quantitative impact.
 - Qualitative description of impact:
There is no qualitative impact.
3. Costs to the State:
 - Implementation and enforcement costs borne by the agency or any other agency:
There are no anticipated costs.
 - Anticipated effect on state revenues:
There is not an anticipated effect on state revenues.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

Chapter 5 does not impose any costs if the chapter remains in the Board's rules. The primary benefit of this rulemaking is a simplified regulatory framework.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

Chapter 5 can be rescinded because it does not add to or further clarify existing statutory authority. The Board has determined that it is less intrusive to simply utilize the existing statutory language without the additional burden of a rule restating the same.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:

Rescinding most of Chapter 5 but keeping a consolidated reference to the various statutory provisions was considered.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking:

The Board believes that the restatement of statute is an unnecessary function of an administrative rule and consistency in administrative workup can be achieved through the statute alone.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The Board does not believe the chapter has an adverse impact on small business, nor does rescinding the chapter.

Text of Proposed Rulemaking

ITEM 1. Rescind and reserve **199—Chapter 5**.

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 199—Chapter 6
“Complaint Procedures”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 476.2 and 476.3
State or federal law(s) implemented by the rulemaking: Iowa Code section 476.83

Public Hearing

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

September 13, 2023
1 p.m.

Board Hearing Room
1375 East Court Avenue
Des Moines, Iowa

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis. Written comments in response to this Regulatory Analysis must be received by the Iowa Utilities Board no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

IT Support
Iowa Utilities Board
Phone: 515.725.7300
Email: ITSupport@iub.iowa.gov

Purpose and Summary

Chapter 6 describes the process under Iowa Code section 476.3 for a person to file a complaint with the Board against a utility.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

- Classes of persons that will bear the costs of the proposed rulemaking:

Because the proposed rulemaking implements the Board’s statutory responsibility with regard to complaints against utilities, any costs are included in the Board’s approved budget, which is paid for by public utilities.

- Classes of persons that will benefit from the proposed rulemaking:

All persons who have complaints about the service or rates of rate-regulated utilities and certain complaints about the service of electric cooperatives and municipal utilities will benefit from the description of the Board’s informal complaint process in this proposed rulemaking.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:

- Quantitative description of impact:

Because this is an informal process, which is handled informally by the everyday work of the Board, there are no costs to a person filing an informal complaint. There may be some costs to a utility that is required to respond to a complaint.

- Qualitative description of impact:

This proposed rulemaking describes an informal complaint process that ensures that customers of public utilities are treated without discrimination and in compliance with a utility’s rules and legal responsibilities.

3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency:

There are no additional costs to any agency other than the normal everyday costs of operation of the Board.

- Anticipated effect on state revenues:

There is no anticipated effect on state revenues.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

Having an established informal complaint process provides public utility customers with a process to address complaints and provides costs and benefits to both the customer and utility that would not be available if there was no informal complaint process.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

Because this is an informal process internally investigated and resolved by Board staff, the Board does not believe there are any less costly methods of addressing complaints against utilities.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:

Because Iowa Code section 476.3 provides that complaints may be filed against public utilities, the only alternative that could be adopted would be a formal contested case proceeding, and the Board's informal complaint process is a more efficient and less costly process to address complaints.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking:

The Board's informal complaint process is a more efficient and less costly process to address complaints.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

There is no impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 199—Chapter 6 and adopt the following new chapter in lieu thereof:

CHAPTER 6 COMPLAINT PROCEDURES

199—6.1(476) General inquiries. Any person may seek assistance from the Iowa utilities board by appearing in person at the board’s office at 1375 East Court Avenue, Des Moines, Iowa; by mailing an inquiry to the board’s office; by placing a telephone call to the board’s customer service bureau at (515)725-7300 or toll-free (877)565-4450; by sending an inquiry by email to customer@iub.iowa.gov; or by contacting the agency through any other means. Board staff obtains the information necessary to answer the inquiry, or, if the inquiry is not resolved after board staff has obtained additional information, the person making the inquiry may escalate the inquiry to a written complaint by requesting an informal investigation pursuant to rule 199—6.2(476) and Iowa Code section 476.3.

199—6.2(476) Informal complaint procedures. Any person may submit a written complaint to the agency requesting a determination of the reasonableness of rates, charges, schedules, service, regulations, or anything done or not done by a public utility for those services or rates subject to regulation by the board. “Person” as used in this chapter includes a person as defined in Iowa Code section 4.1(20).

6.2(1) Information to be filed. The written complaint should include the following information:

a. The name of the utility involved, any utility personnel known or believed to be familiar with the facts stated in the complaint, and the location of the office of the utility where the complaint was originally made and processed.

b. The name of the complainant. If the complaint is being made on behalf of a person other than the complainant, an affidavit from the person upon whose behalf the complaint is being made, attesting to the accuracy of the complaint, should be included. A complaint filed by an organization on behalf of its members should include an affidavit signed by an officer of the organization.

c. The address, or addresses, of the premises where the service, billing problems, or other actions occurred. If the complainant resides at a different address, the complaint should also state where a response to the complaint is to be mailed. The complainant will provide a telephone number and, if available, an email address where the complainant can be reached.

d. The nature of the complaint, and efforts made to resolve the matter. Bills, correspondence, or other relevant documents should be included if the documents will aid the board’s understanding of the utility’s action or practice about which the complaint is made. If known, references to statutes or rules believed to govern the outcome of the complaint should be included. Also, a description of the efforts made by the complainant to resolve the complaint with the utility should be included. The complainant should contact the utility to attempt to resolve the complaint prior to submitting a complaint to the board.

e. A proposal for resolving the complaint. The proposal should refer to any known statutes, board orders, or rules that support the resolution proposed by the complainant.

6.2(2) Request for additional information. If board staff determines that additional information is needed prior to forwarding the complaint to the utility, the complainant will be notified that specified additional information shall be provided. If the requested additional information is not provided within 10 days, the complaint may be dismissed. Dismissal of the complaint on this basis does not prevent the complainant from filing in the future a complaint that includes the requested information.

199—6.3(476) Processing the informal complaint. When the board receives a written complaint that includes the necessary information outlined in rule 199—6.2(476), board staff will initiate the informal complaint process by opening an investigation into the complaint and assigning the informal complaint a file number.

6.3(1) Within ten days after receipt of the written complaint, or of any additional information requested, board staff will forward to the public utility and the consumer advocate the complaint and any additional information provided by the complainant.

6.3(2) Within 20 days, the utility shall respond to the complaint and send a copy of its response to the complainant and the consumer advocate. Prior to the date the response is due, the utility may request an extension of time to respond to the complaint. Within five days, board staff will notify the utility, the complainant, and the consumer advocate whether the request for an extension is granted and of the length of the extension.

6.3(3) The utility shall specifically address each allegation made by the complainant and provide any supporting facts, statutes, rules, board orders, or tariff provisions supporting its response. The utility shall include copies of all related letters, records, or other documents not supplied by the complainant, and all records concerning the complainant that are not confidential or privileged. In cases involving confidential or privileged records, the response shall advise of the records' existence.

199—6.4(476) Proposed resolution of an informal complaint.

6.4(1) After the utility's response is received, board staff may request additional information deemed necessary to complete the investigation and resolve the complaint. When all necessary information has been received and the investigation is complete, board staff will send a letter with a proposed resolution of the complaint to the complainant, the utility, and the consumer advocate.

6.4(2) The complainant, the utility, and consumer advocate have 14 days after the date the proposed resolution is issued to file a request for a formal proceeding. If no party files a request for formal proceeding within 14 days pursuant to subrule 6.5(1), the proposed resolution is binding.

6.4(3) After the proposed resolution is issued, the complainant, utility, or consumer advocate may request in writing within 14 days that board staff reopen the investigation regarding the complaint to consider additional information, changed circumstances, or other relevant information not provided in the initial investigation. After board staff has reviewed any additional information provided, board staff will issue a second proposed resolution. If the request to reopen the investigation is denied, the complainant, utility, or consumer advocate has 14 days from the issuance of the denial to request that the board open a formal complaint proceeding pursuant to subrule 6.5(1).

199—6.5(476) Initiating formal complaint proceedings.

6.5(1) *Request for formal proceeding based upon a proposed resolution.* If the consumer advocate, the complainant, or the public utility does not agree with the proposed resolution, a request for a formal complaint proceeding may be made in writing within 14 days of the issuance of the proposed resolution. The request for a formal proceeding will be considered as filed on the date of the United States Postal Service postmark, the date of email, the date of filing in the board's electronic filing system, or the date of in-person delivery to the board's customer service bureau. The request will include the file number of the informal complaint and explain why the proposed resolution should be modified or rejected. All parties to the informal complaint will be provided copies of the request for a formal proceeding. Any other party to the informal complaint investigation may submit a response to the request for a formal proceeding within 10 days of the date the request was submitted to the board.

6.5(2) *Request for formal complaint proceeding.* Upon receipt of a request for a formal complaint proceeding, the board will issue an order either granting or denying the request.

199—6.6(476) Applicable procedures. When the complaint is docketed as a formal proceeding, the procedures set forth in 199—Chapter 7 of these rules will apply.

199—6.7(476) Record. The written complaint and all information obtained during the informal investigation will be uploaded into the electronic filing system formal complaint docket and be made part of the record in the formal complaint proceeding. The information from the informal complaint investigation will be redacted pursuant to requirements in 199—Chapter 7.

199—6.8(476) Special procedures for complaints alleging unauthorized changes in telecommunications services. Notwithstanding the deregulation of a communications service or facility pursuant to Iowa Code section 476.1D, complaints alleging an unauthorized change in telecommunications service (more information is contained in rule 199—22.9(476)) will be processed pursuant to the rules set forth in this chapter with the following additional or substituted procedures:

6.8(1) Upon receipt of the complaint and with the customer's acknowledgment, a copy of the complaint or a notification of receipt of a telephone or other oral complaint will be forwarded to the executing service provider and the preferred service provider as a request for a change in the customer's

service to the customer's preferred service provider, unless the service has already been changed to the preferred service provider.

6.8(2) The complaint or notification of receipt of a telephone or other oral complaint will also be forwarded to the alleged unauthorized service provider. That entity shall file a response to the complaint within 20 days of the date the complaint or notification of receipt of a telephone or other oral complaint was forwarded. The response must include proof of verification of the customer's authorization for a change in service or a statement that the unauthorized service provider does not have such proof of verification.

6.8(3) If the alleged unauthorized service provider includes with its response alleged proof of verification of the customer's authorization for a change in service, the response will be forwarded to the customer. The customer will have ten days to challenge the verification or otherwise reply to the service provider's response.

6.8(4) As a part of the informal complaint proceedings, board staff may issue a proposed resolution to determine the potential liability, including assessment of damages, for unauthorized changes in service among the customer, the previous service provider, the executing service provider, and the submitting service provider, and any other interested person. In all cases, the proposed resolution allocates responsibility among the interested persons on the basis of their relative responsibility for the events that are the subject matter of the complaint. For purposes of this rule and in the absence of unusual circumstances, the term "damages" means charges directly relating to the telecommunications services provided to the customer that have appeared or may appear on the customer's bill. The term "damages" does not include incidental, consequential, or punitive damages.

6.8(5) If the complainant, the service provider, consumer advocate, or any other interested person directly affected by the proposed decision is dissatisfied with the proposed resolution, a request for formal complaint proceedings may be filed. A request for formal complaint proceedings will be processed by the board pursuant to rule 199—6.5(476) et seq.

If no request for formal complaint proceedings is received by the board within 14 days after issuance of the proposed resolution, the proposed resolution will be deemed binding upon all persons notified of the informal proceedings and affected by the proposed resolution. Notwithstanding the binding nature of any proposed resolution as to the affected persons, the board may at any time and on its own motion initiate formal proceedings that may alter the allocation of liability.

6.8(6) No entity may commence any actions to re-bill, directly bill, or otherwise collect any disputed charges for a change in service until after board action on the complaint is final. If final board action finds that the change in service was unauthorized and determines the customer should pay some amount less than the billed amount, the service provider is prohibited from re-billing or taking any other steps whatsoever to collect the difference between the allowed charges and the original charges.

These rules are intended to implement Iowa Code sections 476.2, 476.3, 476.103 and 546.7.

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 199—Chapter 7
“Practice and Procedure”

Iowa Code sections authorizing rulemaking: 474.5 and 476.2
State or federal law(s) implemented by the rulemaking: Iowa Code chapter 17A and sections 474.5
and 476.2

Public Hearing

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

October 5, 2023
1:30 p.m.

Board Hearing Room
1375 East Court Avenue
Des Moines, Iowa

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis. Written comments in response to this Regulatory Analysis must be received by the Iowa Utilities Board (IUB) no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

IT Support
Iowa Utilities Board
Phone: 515.725.7300
Email: ITSupport@iub.iowa.gov

Purpose and Summary

The purpose of this proposed rulemaking is to explain the procedures governing contested case proceedings, investigations, and other proceedings conducted by the IUB or a presiding officer and to secure a fair and cost-effective determination in every such proceeding.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

- Classes of persons that will bear the costs of the proposed rulemaking:

The proposed rules apply to all persons and parties appearing before the IUB in a proceeding. While such persons and parties may incur costs in the course of those proceedings, those costs are primarily caused by the underlying nature and course of the proceeding. The rules are intended to lessen the costs and time required to participate in IUB proceedings.

- Classes of persons that will benefit from the proposed rulemaking:

Persons and entities that wish to participate in IUB contested cases and other proceedings will benefit from the proposed rulemaking.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:

- Quantitative description of impact:

These proposed rules are intended to assist members of the public wishing to participate in IUB proceedings by describing and detailing the rules governing such participation. The rules are further intended to ensure that IUB proceedings are fairly and efficiently conducted. While there may be costs incurred by the public in participating in IUB proceedings, those costs are more directly caused by the

nature and course of the proceeding, and the rules in Chapter 7 are intended to minimize the time spent and expenses incurred when participating in IUB proceedings.

- Qualitative description of impact:

Chapter 7 assists Iowans who wish to participate in IUB contested cases or other proceedings. The rules ensure that such persons who choose to participate are aware of the proceeding expectations and procedures.

3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency:

Because Chapter 7 merely provides the framework for IUB proceedings, the rules are not viewed as directly causing costs to the agency; rather, the agency costs associated with IUB proceedings are more directly caused by the nature of any such proceeding itself. For example, while Chapter 7 sets the procedural requirements for electric transmission line franchise contested cases, Iowa Code chapter 478 is the authority that gives rise to the proceeding itself.

- Anticipated effect on state revenues:

There is no anticipated effect on state revenues.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

Because Chapter 7 imposes no direct costs on the public and no costs on the agency (or any other agency) and because the public benefits from the availability of the information contained within Chapter 7, the benefits of providing the information outweigh the costs. Inaction is not advised because the public would not be aware of what was needed to fully participate in IUB contested cases and other proceedings.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

Because Chapter 7 imposes no direct costs, the agency does not believe there is a less costly or intrusive method.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:

Inaction was considered by the IUB.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking:

As stated above, inaction is not advisable because there is value provided in letting the public know the IUB's expectations, exceptions, and procedures for IUB proceedings.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.

- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.

- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.

- Establish performance standards to replace design or operational standards in the rulemaking for small business.

- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The agency does not believe Chapter 7 has an adverse impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 199—Chapter 7 and adopt the following new chapter in lieu thereof:

CHAPTER 7
PRACTICE AND PROCEDURE

199—7.1(17A,474,476) Scope and applicability.

7.1(1) This chapter applies to contested case proceedings, investigations, and other proceedings conducted by the board or a presiding officer, unless the proceedings have specific procedures established in board rules. If there are no other applicable procedural rules, this chapter applies to other types of agency action, unless the board or presiding officer orders otherwise. The rules in this chapter regarding the content and format of pleadings, testimony, workpapers, and other supporting documents apply to both paper filings and electronic filings made pursuant to 199—Chapter 14. The rules in this chapter regarding filing, service, and the necessary number of copies apply to paper filings. The filing and service of electronically filed documents is governed by 199—Chapter 14. The board has established additional procedural requirements in other chapters as described in subrules 7.1(2) through 7.1(5).

7.1(2) Additional rules applicable only to rate cases, tariff filings, and rate regulation election by rural electric cooperatives are contained in 199—Chapter 26.

7.1(3) Notice of inquiry dockets and investigations. The board may issue a notice of inquiry or open an investigation and establish a docket through which the inquiry or investigation can be processed. The procedural rules in this chapter apply to these dockets, unless otherwise ordered by the board or presiding officer.

7.1(4) Reorganizations. Procedural rules applicable to reorganizations are included in rule 199—32.9(476). In the event the requirements in rule 199—32.9(476) conflict with the requirements in this chapter, the requirements in rule 199—32.9(476) are controlling.

7.1(5) Discontinuance of service incident to utility property transfer. This subrule does not apply to telecommunications service providers registered with the board pursuant to Iowa Code section 476.95A.

a. Scope. This rule applies to discontinuance of utility service pursuant to Iowa Code section 476.20(1), which includes the termination or transfer of the right and duty to provide utility service to a community or part of a community incident to the transfer, by sale or otherwise, except a stock transfer incident to corporate reorganization. This rule does not limit rights or obligations created by other applicable statutes or rules.

b. Application. An application for permission to discontinue service should include a summary of the relevant facts and the grounds upon which the application should be granted. When the discontinuance of service is incident to the transfer of utility property, a joint application will be filed by the transferor utility and the transferee.

c. Approval. Within 30 days after an application is filed, the board will approve the application or docket the application for further investigation. Failure to act on the application within 30 days will be deemed approval of the application.

d. Contested cases. Contested cases under paragraph 7.1(5) “c” will be completed within four months after date of docketing.

e. Criteria. The application will be granted if the board finds the utility service is no longer necessary, or if the board finds the transferee is ready, willing, and able to provide comparable utility service.

7.1(6) The purpose of these rules is to facilitate the transaction of business before the board and to promote the just resolution of controversies. Consistent with this purpose, the application of any of these rules, unless otherwise prescribed by law, may be waived by the board or presiding officer pursuant to rule 199—1.3(17A,474,476).

7.1(7) Procedural orders.

a. Authority to issue procedural orders in all proceedings, including contested case proceedings, investigations, and all other dockets and matters before the board when a majority of the board is not available due to emergency, or for the efficient and reasonable conduct of proceedings, is granted to a single board member. If no member of the board is available to issue a procedural order due to emergency, or for the efficient and reasonable conduct of proceedings, the procedural order may be issued by a presiding officer designated by the board. If a presiding officer is not available to issue a procedural order due to an emergency, or for the efficient and reasonable conduct of proceedings, a procedural order may be issued by the general counsel of the board.

b. Procedural orders under this subrule will be issued only upon the showing of good cause and when the prejudice to a nonmoving party is not great. The procedural order under this subrule will state that it is issued pursuant to the delegation authority established in subrule 7.1(7) and that the procedural order so issued is subject to review by the board upon its own motion or upon motion by any party or other interested person.

199—7.2(17A,476) Definitions. Except where otherwise specifically defined by law:

“*Board*” means the Iowa utilities board or a majority thereof.

“*Complainants*” means persons who complain to the board of any act or thing done or omitted to be done in violation, or claimed to be in violation, of any provision of Iowa Code chapters 476 through 476C, 477, 477A, and 477C through 479B, or of any order or rule of the board.

“*Consumer advocate*” means the office of consumer advocate, a division of the Iowa department of justice, referred to in Iowa Code chapter 475A.

“*Contested case*” means a proceeding defined by Iowa Code section 17A.2(5) and includes any matter defined as a no factual dispute contested case under Iowa Code section 17A.10A.

“*Data request*” means a discovery procedure in which the requesting party asks another person for specified information or requests the production of documents.

“*Expedited proceeding*” means a proceeding before the board in which a statutory or other provision of law directs the board to render a decision in the proceeding in six months or less.

“*Filed*” means accepted for filing by the board as defined in rule 199—14.3(17A,476).

“*Intervenor*” means any person who, upon written petition, is permitted to intervene as a party in a specific proceeding before the board.

“*Issuance*” means the date on which an order is uploaded into the board’s electronic filing system.

“*Party*” means each person named or admitted as a party in a proceeding before the board.

“*Person*” means the same as defined in Iowa Code section 4.1(20) and includes individuals and all forms of legal entities.

“*Petitioner*” or “*applicant*” means any party who, by written petition, application, or other filing, applies for or seeks relief from the board.

“*Presiding officer*” means one board member or another person designated by the board with the authority to preside over a particular proceeding.

“*Proposed decision*” means the presiding officer’s recommended findings of fact, conclusions of law, decision, and order in a proceeding that has been assigned by the board to the presiding officer.

“*Service*” means service as prescribed in 199—Chapter 14.

199—7.3(17A,476) Presiding officers. Presiding officers may be designated by the board to preside over contested cases or other proceedings and conduct hearings and have the following authority, unless otherwise ordered by the board:

1. To regulate the course of hearings;
2. To administer oaths and affirmations;
3. To rule upon the admissibility of evidence and offers of proof;
4. To take or cause depositions to be taken;

5. To dispose of procedural matters, discovery disputes, motions to dismiss, and other motions that may involve final determination of proceedings, subject to review by the board on its own motion or upon application by any party;
6. To certify any question to the board, in the discretion of the presiding officer or upon direction of the board;
7. To permit and schedule the filing of written briefs;
8. To hold appropriate conferences before, during, or after hearings;
9. To render a proposed decision and order in a contested case proceeding, or other proceeding, subject to review by the board on its own motion or upon appeal by any party; and
10. To take any other action necessary or appropriate to the discharge of duties vested in the presiding officer, consistent with law and with the rules and orders of the board.

199—7.4(17A,474,476) General information.

7.4(1) Orders. All orders will be issued and uploaded into the board's electronic filing system. Orders are effective upon acceptance into the electronic filing system, unless otherwise provided in the order. Orders and other filings in dockets may be viewed in the specific docket accessed through the board's electronic filing system.

7.4(2) Communications.

a. Electronic communications. Unless otherwise specifically provided, all electronic communications and documents are officially filed when they are accepted for filing as defined in rule 199—14.3(17A,476). The electronic service provisions in rule 199—14.16(17A,476) apply.

b. Paper filings. Paper filings may only be made with board approval, except for filings made pursuant to the exceptions in rule 199—14.4(17A,476).

7.4(3) Reference to docket number. The applicable docket number(s) should be included on the first page of all filings.

7.4(4) Defective filings. Only submissions that conform to the requirements of the applicable rule, statute, or order of the board or presiding officer will be accepted for filing, and submissions that fail to substantially conform with the applicable requirements will be considered defective and may be rejected unless waiver of the relevant requirement has been granted by the board or presiding officer prior to filing. The board or presiding officer may reject a filing even though board employees have file-stamped or otherwise acknowledged receipt of the filing.

7.4(5) Service of documents.

a. Method of service.

(1) Paper service. Paper service of filings is only necessary on those parties, or persons, whom the board has approved to receive paper service. All filings served by paper are to be filed electronically pursuant to rule 199—14.16(17A,476) in the appropriate docket in the electronic filing system, include a certificate of service, and be served on the consumer advocate.

(2) Electronic service. The board's rule regarding electronic service is at rule 199—14.16(17A,476).

b. Date of service.

(1) Paper service. Unless otherwise ordered by the board or presiding officer, the date of service is the day when the document served is deposited in the United States mail or overnight delivery, is delivered in person, or otherwise as the parties may agree. Although service is effective, the document is not deemed filed with the board until it is received by the board.

(2) Electronic service. The board's rule regarding the date of electronic service is at rule 199—14.16(17A,476).

c. Parties entitled to service.

(1) Paper service. If a party has been approved by the board to receive service of paper documents, the paper service provisions in this subrule apply.

(2) Electronic service. The board's rule regarding electronic service is at rule 199—14.16(17A,476).

(3) Service of documents containing confidential information. Parties may condition the service of unredacted documents containing confidential information on the execution of a confidentiality agreement. If the parties are unable to agree on a confidentiality agreement, they may ask the board or presiding officer to issue an appropriate order.

d. Service upon attorneys. When a party has appeared by attorney, service upon the attorney is deemed proper service upon the party.

7.4(6) Appearance. Each party to a proceeding is to file a written appearance in the docket that identifies one person upon whom the board may electronically serve all orders, correspondence, or other documents. If a party has previously designated a person to be served on the party's behalf in all matters, filing the appearance will not change this designation, unless the party directs that the designated person be changed in the appearance. If a person files an application, petition, or other initial pleading, or an answer or other responsive pleading on behalf of a party, containing the person's contact information, the filing of a separate appearance is not necessary. The appearance may be filed with the party's initial filing in the proceeding or may be filed after the proceeding has been docketed.

7.4(7) Representation by attorney.

a. Any party to a proceeding before the board or a presiding officer may appear and be heard through a licensed attorney. If the attorney is not licensed by the state of Iowa, the attorney is to apply for admission pro hac vice pursuant to Iowa Court Rule 31.14(2)(b).

b. A corporation or association may appear and present evidence by an officer or employee. However, only licensed attorneys may represent a party before the board or a presiding officer in any matter involving the exercise of legal skill or knowledge, except with the consent of the board or presiding officer. All persons appearing in proceedings before the board or a presiding officer are to conform to the standard of ethical conduct applicable to attorneys appearing before the courts of Iowa.

7.4(8) Expedited proceedings.

a. If a person claims that a statute or other provision of law imposes an obligation on the board to render a decision in a contested case in six months or less, the person will include the phrase "expedited proceedings" in the caption of the first pleading filed by the person in the proceeding and set the basis for the claim in the body of the pleading. If the phrase is not so included in the caption, the board or presiding officer may find and order that the proceeding did not commence for time calculation purposes until the date on which the first pleading containing the "expedited proceedings" phrase is filed or such other date that the board or presiding officer finds is just and reasonable under the circumstances.

b. Shortened time limits applicable to expedited proceedings are contained in rules 199—7.9(17A,476) (pleadings and answers), 199—7.12(17A,476) (motions), 199—7.13(17A,476) (intervention), 199—7.15(17A,476) (discovery), and 199—7.26(17A,476) (appeals from proposed decisions). An additional service requirement applicable to expedited proceedings is contained in subrule 7.4(5) (service of documents).

c. A party may file a motion that proceedings be expedited even though such treatment is not mandated by statute or other provision of law. Such voluntary expedited treatment may be granted at the board's or presiding officer's discretion in appropriate circumstances considering the needs of the parties and the interests of justice. In these voluntary expedited proceedings, the board or presiding officer may shorten the filing dates or other procedures established in this chapter. The shortened time limits and additional service requirement applicable to expedited proceedings established in this chapter and listed in subrule 7.4(8) do not apply to voluntary expedited proceedings under this paragraph unless ordered by the board or presiding officer. If a party requests an expedited proceeding pursuant to this paragraph, the party will include "Expedited Proceedings" in the title.

199—7.5(17A,476) Time requirements.

7.5(1) Time is computed as provided in Iowa Code section 4.1(34).

7.5(2) In response to a request or on its own motion, for good cause, the board or presiding officer may extend or shorten the time to take any action, except as precluded by statute.

199—7.6(17A,476) Electronic proceedings. The board or presiding officer may hold proceedings by telephone conference call or other electronic means, such as a webinar service, in which all parties have an opportunity to participate. The board or presiding officer will determine the location of the parties and witnesses for electronic proceedings. The convenience of the witnesses or parties, as well as the nature of the case, will be considered when locations are determined.

199—7.7(17A,476) Electronic information. The board's published standards for electronic information are available on the board's website at iub.iowa.gov or from the board's customer service center.

199—7.8(17A,476) Delivery of notice of hearing. When the board or presiding officer issues an order containing a notice of hearing, delivery of the order will be by electronic notice through the electronic filing system, and to those persons who have been approved to receive paper documents, unless otherwise ordered.

199—7.9(17A,476) Pleadings and answers.

7.9(1) Pleadings. Pleadings may be filed pursuant to statute, rule, or order or filed to initiate a docket.

7.9(2) Answers.

a. Unless otherwise ordered by the board or presiding officer, a person may file an answer in response to a complaint, petition, application, or other pleading within 20 days after the day on which the pleading being answered was filed in the board's electronic filing system and served upon the respondent or other party. However, when a statute or other provision of law mandates that the board to issue a decision in the case in six months or less, a person may file an answer within ten days of service of the pleading being answered, unless otherwise ordered by the board or presiding officer.

b. An answer will specifically admit, deny, or otherwise answer all material allegations of the pleadings and also briefly set forth the affirmative grounds relied upon to support each answer.

c. Any party who deems the complaint, petition, application, or other pleading insufficient to show a breach of legal duty or grounds for relief may move to dismiss instead of, or in addition to, answering.

d. A party may apply for a more definitive and detailed statement instead of, or in addition to, answering, if appropriate.

7.9(3) Amendments to pleadings. Amendments to pleadings may be allowed upon proper motion at any time during the pendency of the proceeding upon such terms as are just and reasonable.

199—7.10(17A,476) Prefiled testimony and exhibits.

7.10(1) The board or presiding officer may order the parties to file prefiled testimony and exhibits prior to the hearing. The use of prefiled testimony is the standard method for providing testimony in board contested case and other proceedings. The board will normally issue a procedural schedule, which contains the dates by which prefiled testimony and exhibits are to be filed.

7.10(2) Prefiled testimony contains all statements that a witness intends to give under oath at the hearing, set forth in question and answer form. If possible, each line should be separately numbered. When a witness who has submitted prefiled testimony takes the stand, the witness does not ordinarily repeat the written testimony or give new testimony. Instead, the witness is cross-examined by the other parties concerning the statements already made in writing. However, the witness may be permitted to correct or update prefiled testimony on the stand and, in appropriate circumstances and with the approval of the board or presiding officer, may give a summary of the prefiled testimony. If the witness has more than three corrections to make to the prefiled testimony or exhibits, then the corrected testimony or exhibits should be filed in the appropriate docket in the board's electronic filing system at least three days prior to the hearing. The prefiled testimony and any exhibits are to be marked and identified in conformance with the board's approved naming convention provided on the board's electronic filing system website or as directed in a board order.

7.10(3) Prefiled testimony and exhibits are to be accompanied by an affidavit in substantially the following form: "I, [person's name], being first duly sworn on oath, state that I am the same [person's name] identified in the testimony being filed with this affidavit, that I have caused the testimony [and

exhibits] to be prepared and am familiar with its contents, and that the testimony [and exhibits] is true and correct to the best of my knowledge and belief as of the date of this affidavit.”

7.10(4) Prefiled testimony and exhibits are filed as follows:

a. All supporting workpapers.

(1) The board’s standards for electronic information, which are available on the board’s website or from the board’s customer service center, govern the filing of electronic workpapers in native electronic formats.

(2) Workpapers’ underlying analyses and data presented in exhibits should be explicitly referenced within the exhibit, including the name and other identifiers (e.g., cell coordinates) for electronic workpapers and volume, tab, and page numbers for other workpapers.

(3) The source of any number used in a workpaper that was not generated by that workpaper will be identified.

b. The derivation or source of all numbers used in either testimony or exhibits that were not generated by workpapers.

c. Copies of any specific studies or financial literature relied upon or complete citations for them if publicly available.

d. Electronic copies, in native electronic format, of all computer-generated exhibits that comply with the board’s standards for electronic information, which are available on the board’s website or from the board’s customer service center.

7.10(5) The board’s standards for electronic information, which are available on the board’s website or from the board’s customer service center, and the electronic filing rules in rule 199—Chapter 14 govern the filing of prefiled testimony and exhibits.

7.10(6) If a party has filed part or all of its prefiled testimony and exhibits as confidential and then later withdraws the claim of confidentiality for part or all of the testimony and exhibits, or if the board denies the request to hold the testimony and exhibits confidential, the board may order the party to refile the testimony and exhibits with the information made public if the party does not otherwise do so.

199—7.11(17A,476) Documentary evidence in books and materials. When documentary evidence being offered is contained in a book, report, or other document, the offering party will file only the material, relevant portions in an exhibit.

199—7.12(17A,476) Motions. Motions, unless made during hearing, are to be in writing, state the grounds for relief, and state the relief or order sought. Motions based on matters that do not appear of record may be supported by affidavit or other evidence. The filing of motions is governed by 199—Chapter 14. Any party may file a written response to a motion no later than 14 days from the date the motion is filed, unless the time period is extended or shortened by the board or presiding officer. When a provision of law directs the board to issue a decision in the case in six months or less, a party filing a written response is to do so within seven days from the date the motion is filed, unless otherwise ordered by the board or presiding officer. Failure to file a timely response may be deemed a waiver of objection to the motion. Requirements regarding motions related to discovery are contained in subrules 7.15(4) and 7.15(5).

199—7.13(17A,476) Intervention.

7.13(1) Petition. Unless otherwise ordered by the board or presiding officer, a person may request intervention by filing a petition to intervene no later than 20 days following the order setting a procedural schedule. However, when a provision of law directs the board to issue a decision in the case in six months or less, the petition to intervene is to be filed no later than ten days following the order setting a procedural schedule, unless otherwise ordered by the board or presiding officer.

7.13(2) Response. Any party may file a response within seven days of service of the petition to intervene unless the time period is extended or shortened by the board or presiding officer.

7.13(3) Grounds for intervention. Any person having an interest in the subject matter of a proceeding may be permitted to intervene at the discretion of the board or presiding officer. In determining whether to grant intervention, the board or presiding officer will consider:

- a. The prospective intervenor's interest in the subject matter of the proceeding;
- b. The effect of a decision that may be rendered upon the prospective intervenor's interest;
- c. The extent to which the prospective intervenor's interest will be represented by other parties;
- d. The availability of other means by which the prospective intervenor's interest may be protected;
- e. The extent to which the prospective intervenor's participation may reasonably be expected to assist in the development of a sound record through presentation of relevant evidence and argument; and
- f. Any other relevant factors.

7.13(4) In determining the extent to which the prospective intervenor's interest will be represented by other parties, the consumer advocate's role of representing the public interest will not be interpreted as representing every potential interest in a proceeding.

7.13(5) The board or presiding officer may limit a person's intervention to particular issues or to a particular stage of the proceeding, or may otherwise condition the intervenor's participation in the proceeding. Leave to intervene is generally granted by the board or presiding officer to any person with a cognizable interest in the proceeding.

7.13(6) When two or more intervenors have substantially the same interest, the board or presiding officer, in the board's or presiding officer's discretion, may order consolidation of petitions and briefs and limit the number of attorneys allowed to participate actively in the proceedings to avoid a duplication of effort.

7.13(7) A person granted leave to intervene is a party to the proceeding. However, unless the board or presiding officer rules otherwise for good cause shown, an intervenor is bound by any agreement, arrangement, or order previously made or issued in the case.

199—7.14(17A,476) Consolidation and severance.

7.14(1) *Consolidation.* The board or presiding officer may consolidate in one docket any or all matters at issue in two or more dockets. When deciding whether to consolidate, the board or presiding officer may consider any relevant information, including:

- a. Whether the matters at issue involve common parties or common questions of fact or law;
- b. Whether consolidation is likely to expedite or simplify consideration of the issues involved;
- c. Whether consolidation would adversely affect the substantial rights of any of the parties to the proceedings; and
- d. Any other relevant factors.

7.14(2) *Severance.* The board or presiding officer may order any contested case or portions thereof severed for good cause.

199—7.15(17A,476) Discovery.

7.15(1) Discovery procedures applicable in civil actions are available to parties in contested cases.

7.15(2) Unless otherwise ordered by the board or presiding officer or agreed to by the parties, data requests or interrogatories served by any party are to be responded to or objected to, with concisely stated grounds for relief, within seven days of receipt. When a statutory or other provision of law directs the board to issue a decision in the case in six months or less, this time is reduced to five days. Data requests or interrogatories served on a day the board is closed or after 4:30 p.m. central time on a day the board is open are considered served on the next business day.

7.15(3) Unless otherwise ordered by the board or presiding officer, time periods for compliance with all forms of discovery other than those stated in subrule 7.15(2) are the same as those provided in the Iowa Rules of Civil Procedure.

7.15(4) Prior to filing any motion related to discovery, a party is to make a good faith effort to resolve discovery disputes without the involvement of the board or presiding officer.

7.15(5) Any motion related to discovery will detail the good faith efforts in which the party engaged to resolve the discovery issues with the opposing party. Opposing parties are given the opportunity to

respond within 14 days of the filing of the motion unless the time is extended or shortened by order of the board or presiding officer. When a statutory or other provision of law directs the board to issue a decision in the case in six months or less, this time is reduced to seven days, unless otherwise ordered by the board or presiding officer. The board or presiding officer may rule on the basis of the written motion and any response, or may order argument or other proceedings on the motion.

199—7.16(17A,476) Subpoenas.

7.16(1) Issuance.

a. An agency subpoena will be issued to a party on a written request that includes the name, address, and telephone number of the requesting party. In the absence of good cause for permitting later action, a request for a subpoena will be filed at least seven days before the scheduled hearing. The board will issue subpoenas only on paper, not through the electronic filing system.

b. Except to the extent otherwise provided by law, parties are responsible for service of their own subpoenas and payment of witness fees and mileage expenses. Subpoenas cannot be served electronically through the electronic filing system.

7.16(2) Motion to quash or modify. Upon motion, the board or presiding officer may quash or modify a subpoena for any lawful reason.

199—7.17(17A,476) Prehearing or scheduling conference. The board or presiding officer may schedule a prehearing conference, scheduling conference, or other informal conference at the board's or presiding officer's discretion or at the request of any party for any appropriate purpose. Any agreement reached at the conference will be made a part of the record in the manner directed by the board or presiding officer.

199—7.18(17A,476) Settlements. Parties to a contested case may propose to settle all or some of the issues in the case. The board or presiding officer will not approve settlements, whether contested or uncontested, unless the settlement is reasonable in light of the whole record, consistent with law, and in the public interest. Board adoption of a settlement constitutes the final decision of the board on issues addressed in the settlement.

7.18(1) Proposal of settlements. Two or more parties may by written motion propose settlements for adoption by the board or presiding officer. The motion will contain sufficient information to advise the board or presiding officer and parties not expressly joining the proposal of its scope and of the grounds on which adoption is urged. Parties may propose a settlement for adoption by the board or presiding officer at any time.

7.18(2) Conference. After proposal of a settlement that is not supported by all parties, and prior to approval, the settling parties are to convene at least one conference with notice and opportunity to participate provided to all parties for the purpose of discussing the settlement proposal. Written notice of the date, time, and place is to be furnished at least seven days in advance to all parties to the proceeding. Only parties and their representatives are entitled to attend a settlement conference. A party that has been given notice and opportunity to participate in the conference and does not do so is deemed to have waived its right to contest a proposed settlement, unless good cause is shown for the failure to participate.

7.18(3) Comment period. When a party to a proceeding does not join in a settlement proposed for adoption by the board or presiding officer, the party may file comments contesting all or part of the settlement with the board within 14 days of the filing of the motion proposing settlement unless otherwise ordered by the board or the presiding officer. Unless otherwise ordered by the board or presiding officer, parties may file reply comments within seven days of filing of the comments.

7.18(4) Contents of comments. A party contesting a proposed settlement is to specify in its comments the portions of the settlement that it opposes, the legal basis of its opposition, and the factual issues that it contests. Any failure by a party to file comments may, at the board's or presiding officer's discretion, constitute waiver by that party of all objections to the settlement.

7.18(5) Contested settlements. If the proposed settlement is contested, in whole or in part, on any material issue of fact by any party, the board or presiding officer may schedule a hearing on the contested

issue(s). The board or presiding officer may decline to schedule a hearing where the contested issue of fact is not material or where the contested issue is one of law.

7.18(6) *Unanimous proposed settlement.* In proceedings where all parties join in the proposed settlement, parties may propose a settlement for adoption by the board or presiding officer any time after docketing. Subrules 7.18(2) through 7.18(5) do not apply to a proposed settlement filed concurrently by all parties to the proceeding. Rule 199—26.3(17A,476) applies to settlements in rate cases.

7.18(7) *Inadmissibility.* Any discussion, admission, concession, or offer to settle, whether oral or written, made during any negotiation on a settlement is privileged to the extent provided by law, including, but not limited to, Iowa Rule of Evidence 5.408.

199—7.19(17A,476) *Stipulations.* Parties to any proceeding or investigation may, by stipulation filed with the board, agree upon the facts or law or any portion thereof involved in the controversy, subject to approval by the board or presiding officer.

199—7.20(17A,476) *Investigations.* The availability of discovery pursuant to Iowa Code section 17A.13 or the Iowa Rules of Civil Procedure does not limit the investigatory powers of the board, its representatives, or the consumer advocate.

199—7.21(17A,476) *Withdrawals.* A party requesting a contested case proceeding may, with the permission of the board or presiding officer, withdraw that request at any time prior to the issuance of a proposed or final decision in the case.

199—7.22(17A,476) *Ex parte communication.* Ex parte communications are governed by Iowa Code section 17A.17.

199—7.23(17A,476) *Hearings.*

7.23(1) *Board or presiding officer.* The board or presiding officer presides at the hearing and may rule on motions and issue such orders and rulings as will ensure the orderly conduct of the proceedings. The board or presiding officer will maintain the decorum of the hearing and may refuse to admit, may set limits on, or may expel from the hearing anyone whose conduct is disorderly.

7.23(2) *Witnesses.* Each witness will be sworn or affirmed by the board, presiding officer, or the court reporter and be subject to examination and cross-examination. The board or presiding officer may limit questioning in a manner consistent with law. In appropriate circumstances, the board or presiding officer may order that witnesses testify as members of a witness panel.

7.23(3) *Order of presenting evidence.* The board or presiding officer will determine the order of the presentation of evidence based on applicable law and the interests of efficiency and justice, taking into account the preferences of the parties. Normally, the petitioner opens the presentation of evidence. In cases where testimony has been prefiled and unless otherwise ordered by the board or the presiding officer, each party will make its witnesses available for cross-examination on all testimony filed or on behalf of that witness.

7.23(4) *Evidence.*

a. Subject to terms and conditions prescribed by the board or presiding officer, parties have the right to introduce evidence, cross-examine witnesses, and present evidence in rebuttal. Ordinarily, prefiled testimony is used in hearings pursuant to rule 199—7.10(17A,476). Nonsubstantive corrections to prefiled testimony may be made at the beginning of the testimony. However, if more than three corrections need to be made, the sponsoring party should file corrected prefiled testimony prior to the hearing. The sponsoring party is to provide one copy of prefiled testimony and included exhibits to the court reporter.

b. The board or presiding officer will rule on admissibility of evidence and may, where appropriate, take official notice of facts in accordance with law.

c. Stipulation of facts is encouraged. The board or presiding officer may make a decision based on stipulated facts.

d. Unless the exhibit was previously included with prefiled testimony, the party seeking admission of an exhibit at a hearing is to provide opposing parties with an opportunity to examine the exhibit prior to the ruling on its admissibility. All exhibits admitted into evidence are to be marked in accordance with the board's approved naming convention and made part of the evidentiary record. If an exhibit is admitted, unless it was previously included with prefiled testimony, the sponsoring party is to provide at least one copy of the exhibit to each opposing party, one copy to each board member or presiding officer, one copy to the witness (if any), one copy to the court reporter, and two copies to board staff, unless otherwise ordered. Parties are to file all their admitted hearing exhibits in the board's electronic filing system within three days of the close of the hearing.

e. Whenever evidence is ruled inadmissible, the party offering that evidence may submit an offer of proof on the record. The party making the offer of proof for excluded oral testimony is expected to briefly summarize the testimony or, with the permission of the board or presiding officer, present the testimony. The board or presiding officer may direct the offering party to file a written statement of the excluded oral testimony. If the excluded evidence consists of a document or exhibit, it will be marked as part of an offer of proof and inserted in the record. Unless previously included with prefiled testimony, the sponsoring party is to provide at least one copy of the document or exhibit to each opposing party, one copy to each board member or presiding officer, one copy to the witness (if any), one copy to the court reporter, and two copies to board staff, unless otherwise ordered.

7.23(5) Objections. Any party may object to specific evidence or may request limits on the scope of any examination or cross-examination. All objections will be timely made on the record and state the grounds relied on. The board or presiding officer may rule on the objection at the time it is made or may reserve a ruling until the written decision.

7.23(6) Further evidence. At any stage during or after the hearing, the board or presiding officer may order a party to present additional evidence and may conduct additional proceedings as appropriate.

7.23(7) Participation at hearings by nonparties. The board or presiding officer may permit any person to be heard at any hearing, but such person is not a party to the proceedings unless so designated. The testimony or statement of any person so appearing is given under oath and such person is subject to cross-examination by parties to the proceeding, unless the board or presiding officer orders otherwise. If a person who is not a party to a proceeding appears at a hearing and requests to examine or cross-examine witnesses, the board or presiding officer may grant the person intervention in the proceeding as a party for the limited purpose requested by the person and in compliance with subrule 7.4(7).

7.23(8) Briefs.

a. Unless waived by the parties with the consent of the board or presiding officer, times for the filing and service of briefs will be set by the board or presiding officer. Unless otherwise ordered by the board or presiding officer, initial briefs will be filed simultaneously by all parties and reply briefs will be filed simultaneously.

b. Initial briefs should contain a concise statement of the case and all arguments, with citations to the evidence, that the party intends to offer in support of its case. Unless otherwise ordered, a reply brief should be confined to refuting arguments made in the brief of an adverse party. Unless specifically ordered to brief an issue, a party's failure to address an issue by brief will not be deemed a waiver of that issue and does not preclude the board or presiding officer from deciding the issue on the basis of evidence appearing in the record.

c. Every brief of more than 20 pages should contain on its front leaves a table of contents with page references.

d. Briefs should comply with the following requirements:

- (1) The size of pages should be 8½ by 11 inches.
- (2) All printed matter should appear in at least 11-point type.
- (3) There should be margins of at least one inch on the top, bottom, right, and left sides of the sheet.
- (4) The body of the brief should be double spaced.
- (5) Footnotes may be single spaced.

(6) The printed matter may appear in any pitch, as long as the characters are spaced in a readable manner. Any readable font is acceptable.

7.23(9) Oral arguments. The board or presiding officer may set a time for oral argument to address issues raised by the parties during the proceeding or at the conclusion of the hearing or may set a separate date and time for oral argument. The board or presiding officer may set a time limit for argument. Oral argument may be either in addition to or in lieu of briefs. Unless specifically ordered to argue an issue, a party's failure to address an issue in oral argument will not be deemed a waiver of the issue.

7.23(10) Record. The record of the case is maintained in the board's electronic filing system. Unless the record is held confidential pursuant to rule 199—1.9(22), parties and members of the public may examine the record and obtain copies of documents, including the transcript, when available.

7.23(11) Default.

a. If a party fails to appear at a hearing after proper service of notice, or fails to answer or otherwise respond to an appropriate pleading directed to and properly served upon that party, the board or presiding officer may, if no adjournment is granted, enter a default decision or proceed with the hearing and render a decision in the absence of the party.

b. Default decisions or decisions rendered on the merits after a party has failed to appear at a hearing constitute final agency action unless otherwise ordered by the board or presiding officer. However, within 15 days after the date of electronic notification or mailing of the decision, a motion to vacate may be filed with the board. The motion to vacate should state all facts relied on by the moving party that show good cause existed for that party's failure to appear at the hearing or answer or otherwise respond to an appropriate pleading directed to and properly served upon that party. The stated facts should be substantiated by citation to evidence in the record or by affidavit attached to the motion. Unless otherwise ordered, adverse parties have ten days to respond to a motion to vacate. If the decision is rendered by a presiding officer, the board may review it on the board's own motion within 15 days after the date of notification or mailing of the decision.

c. The time for appeal of a decision for which a timely motion to vacate has been filed is stayed pending a decision on the motion to vacate.

d. A motion to vacate will not be granted except upon a finding of good cause. The burden of proof as to good cause is on the moving party. "Good cause" for purposes of this rule has the same meaning as "good cause" for setting aside a default judgment under Iowa Rule of Civil Procedure 1.977.

e. A presiding officer's decision denying a motion to vacate is subject to further appeal within the time limit allowed for further appeal of a decision on the merits in the contested case. A presiding officer's decision granting a motion to vacate is subject to interlocutory appeal by the adverse party pursuant to rule 199—7.25(17A,476).

f. If a motion to vacate is granted and no timely interlocutory appeal has been taken, the board or presiding officer may schedule another contested case hearing.

g. A default decision may award any relief consistent with the record in the case. The default decision may provide either that the default decision is to be stayed pending a timely motion to vacate or that the default decision is to take effect immediately, subject to a timely motion to vacate, an appeal pursuant to rule 199—7.26(17A,476), or a request for stay pursuant to rule 199—7.28(17A,476).

199—7.24(17A,476) Reopening record. The board or presiding officer, on the board's or presiding officer's own motion or on the motion of a party, may reopen the record for the reception of further evidence. When the record was made before the board, a motion to reopen the record may be made any time prior to the issuance of a final decision. When the record was made before a presiding officer, a motion to reopen the record may be made any time prior to issuance of the proposed decision. If the moving party requests the opportunity to present new evidence, the moving party will attach an affidavit from each witness who will present the new evidence with an explanation of the competence of the witness and a description of the evidence to be included in the record.

199—7.25(17A,476) Interlocutory appeals. Upon written request of a party or on its own motion, the board may review an interlocutory order of the presiding officer. In determining whether to do so, the

board may consider the extent to which granting the interlocutory appeal would expedite final resolution of the case and the extent to which review of that interlocutory order by the board at the time it reviews the proposed decision would provide an adequate remedy. Any request for interlocutory review is to be filed within ten days of issuance of the challenged order, but no later than the time for compliance with the order or ten days prior to the date of hearing, whichever is first.

199—7.26(17A,476) Appeals to board from a proposed decision of a presiding officer.

7.26(1) Notification of proposed decision. Notice of the presiding officer's proposed decision and order in a contested case will be sent through the electronic filing system, or by first-class mail if the board has granted a party approval to receive service in paper, on the date the order is issued. The decision will normally include "Proposed Decision and Order" in the title and will normally inform the parties of their right to appeal an adverse decision and the time in which an appeal may be taken.

7.26(2) Appeal from proposed decision. A proposed decision and order of the presiding officer in a contested case becomes the final decision of the board unless, within 15 days after the decision is issued, the board moves to review the decision or a party files an appeal of the decision with the board. The presiding officer may shorten the time for appeal. In determining whether a request for a shortened appeal period should be granted, the presiding officer may consider the needs of the parties for a shortened appeal period, relevant objections of the parties, the relevance of any written objections filed in the case, and whether there are any issues that indicate a need for the 15-day appeal period.

7.26(3) Any adversely affected party may appeal a proposed decision by timely filing a notice of appeal. The appealing party is to file the notice of appeal electronically unless the party has received permission from the board to submit paper filings.

7.26(4) On appeal of a proposed decision of a presiding officer that is based upon new evidence not introduced in the record before the presiding officer, the board will determine whether the new evidence warrants a new hearing. If the board determines that the new evidence is material to the proposed decision and a new hearing should be held, the board may remand the proposed decision to the presiding officer for the taking of the new evidence or may conduct a hearing and issue an order based upon the record before the presiding officer and the new evidence.

7.26(5) Contents of notice of appeal. The notice of appeal is to include the following in separately numbered paragraphs supported, where applicable, by controlling statutes and rules:

- a.* A brief statement of the facts.
- b.* A brief statement of the history of the proceeding, including the date and a description of any ruling claimed to be erroneous.
- c.* A statement of each of the issues to be presented for review.
- d.* A precise description of the error(s) upon which the appeal is based. If a claim of error is based on allegations that the presiding officer failed to correctly interpret the law governing the proceeding, exceeded the authority of a presiding officer, or otherwise failed to act in accordance with law, the appellant will include a citation to briefs or other documents filed in the proceeding before the presiding officer where the legal points raised in the appeal were discussed. If a claim of error is based on allegations that the presiding officer failed to give adequate consideration to evidence introduced at hearing, the appellant will include a citation to pages of the transcript or other documents where the evidence appears.
- e.* A precise statement of the relief requested.
- f.* A statement as to whether an opportunity to file a brief or make oral argument in support of the appeal is requested and, if an opportunity is sought, a statement explaining the manner in which briefs and arguments presented to the presiding officer are inadequate for purposes of appeal.
- g.* If a party wishes to request a stay or other temporary remedy pending review of the proposed decision by the board, the request will state the reasons justifying a stay or other temporary remedy and will address the factors listed in Iowa Code section 17A.19(5) "c."
- h.* Certification of service showing the names and addresses of all parties upon whom a copy of the notice of appeal was served.

7.26(6) Responsive filings and cross-appeals. Parties may file a response to the notice of appeal or may file a cross-appeal within 14 days after the filing of the notice of appeal unless otherwise ordered by the board. If a request for a stay or other temporary remedy was included in the notice of appeal, any party wishing to respond to the request will include the response to the request in the party's response to the notice of appeal or notice of cross-appeal. When a statutory or other provision of law directs the board to issue a decision in the case in less than six months, the period for filing a response or cross-appeal is reduced to seven days from the filing of the notice of appeal.

a. Responses should specifically respond to each of the substantive paragraphs of the notice of appeal and state whether an opportunity to file responsive briefs or to participate in oral argument is requested.

b. The requirements contained in this rule pertaining to a notice of appeal also apply to a notice of cross-appeal, other than the time for filing.

7.26(7) Ruling on appeal. After the filing of the last appeal, response, or cross-appeal, the board will issue an order that may establish a procedural schedule for the appeal or may be the board's final decision on the merits of the appeal. If a request for a stay or other temporary remedy was included in the notice of appeal, the request will be evaluated by the board using the factors stated in rule 199—7.28(17A,476). A stay or other temporary remedy may be vacated by the board upon application of any party or upon the board's own motion.

199—7.27(17A,476) Rehearing and reconsideration.

7.27(1) *Application for rehearing or reconsideration.* Any party to a contested case may file an application for rehearing or reconsideration of the final decision within 20 days after the issuance of a final decision in a contested case. The board will either grant or refuse an application for rehearing within 30 days after the filing of the application or may, after giving the interested parties notice and opportunity to be heard and after consideration of all the facts, including those arising since the making of the order, abrogate or modify its order. A failure by the board to act upon the application for rehearing within the above period is deemed a refusal of the application.

7.27(2) *Contents of application.* Applications for rehearing or reconsideration will specify the findings of fact and conclusions of law claimed to be erroneous, with a brief statement of the alleged grounds of error. Any application for rehearing or reconsideration asserting that evidence has arisen since the final order was issued as a ground for rehearing or reconsideration will present the evidence by affidavit that includes an explanation of the competence of the person to sponsor the evidence and a brief description of the evidence sought to be included.

7.27(3) *Requirements for objections to applications for rehearing or reconsideration.* Notwithstanding the provisions of subrule 7.9(2) and unless otherwise ordered by the board, within 14 days of the date the application was filed, an answer or objection to the application may be filed.

199—7.28(17A,476) Stay of agency decision.

7.28(1) Any party to a contested case proceeding may petition the board for a stay or other temporary remedy pending judicial review of the proceeding. The petition will state the reasons justifying a stay or other temporary remedy and be served on all other parties pursuant to subrule 7.4(5).

7.28(2) In determining whether to grant a stay, the board will consider the factors listed in Iowa Code section 17A.19(5)“c.”

7.28(3) A stay or other temporary remedy may be vacated by the board upon application of any party or upon the board's own motion.

199—7.29(17A,476) Emergency adjudicative proceedings.

7.29(1) *Necessary emergency action.* To the extent necessary to prevent or avoid immediate danger to the public health, safety, or welfare, and consistent with the Constitution and other provisions of law, the board may issue an emergency adjudicative order in compliance with Iowa Code section 17A.18A to order the cessation of any continuing activity, order affirmative action, or take other action within

the jurisdiction of the agency. Before issuing an emergency adjudicative order, the board may consider factors including, but not limited to, the following:

- a.* Whether there has been a sufficient factual investigation to provide reasonably reliable information under the circumstances;
- b.* Whether the specific circumstances that pose immediate danger to the public health, safety, or welfare are likely to be continuing;
- c.* Whether the person obligated to comply with the emergency adjudicative order may continue to engage in other activities without posing immediate danger to the public health, safety, or welfare;
- d.* Whether imposition of monitoring requirements or other interim safeguards would be sufficient to protect the public health, safety, or welfare; and
- e.* Whether the specific action contemplated by the board is necessary to avoid the immediate danger.

7.29(2) *Issuance of order.*

a. An emergency adjudicative order will contain findings of fact, conclusions of law, and policy reasons for the decision, if it is an exercise of the board's discretion, to justify the determination of an immediate danger and the board's decision to take immediate action.

b. The written emergency adjudicative order will be immediately delivered to persons who are to comply with the order by the most reasonably available method, which may include one or more of the following methods: notice through the electronic filing system, personal delivery, certified mail, first-class mail, fax, or email. To the degree practical, the board will select the method or methods most likely to result in prompt, reliable delivery.

c. Unless the written emergency adjudicative order is delivered by personal service on the day issued, the board will make reasonable efforts to contact the persons who are to comply with the order by telephone, in person, or otherwise.

7.29(3) *Completion of proceedings.* Issuance and delivery of a written emergency adjudicative order will normally include notification of a procedural schedule for completion of the proceedings.

These rules are intended to implement Iowa Code chapter 17A and sections 474.5 and 476.2.

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 199—Chapter 8
“Civil Penalties”

Iowa Code sections authorizing rulemaking: 17A.3, 476.51, 476.103(4), 476A.14, 478.29, 478.31, and 479B.21

State or federal law(s) implemented by the rulemaking: Iowa Code section 17A.3

Public Hearing

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

September 21, 2023
2 p.m.

Board Hearing Room
1375 East Court Avenue
Des Moines, Iowa

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis. Written comments in response to this Regulatory Analysis must be received by the Iowa Utilities Board no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

IT Support
Iowa Utilities Board
Phone: 515.725.7300
Email: ITSupport@iub.iowa.gov

Purpose and Summary

The purpose of Chapter 8 is to inform the public of the location of the relevant statutes pertaining to civil penalties that may be imposed by the Board for failure to comply with state law. Prior rulemakings regarding civil penalties considered specific due process procedures, creation of a formula, and/or creation of forms that would provide additional information, but the practice of imposing a civil penalty has been so infrequent and uncontroverted that extensive rules to deal with the situation were deemed unnecessary. The review engendered by Executive Order 10 has highlighted that the only current purpose being served by the chapter is a reference to existing statutory provisions, which is not necessary. Board staff recommends full rescission of the chapter.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

- Classes of persons that will bear the costs of the proposed rulemaking:

Chapter 8 imposes no costs on the public.

- Classes of persons that will benefit from the proposed rulemaking:

This chapter is proposed to be rescinded. The benefit is derived from statutory language, not from restatement in rule.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:

- Quantitative description of impact:

The Board is responsible for enforcing multiple statutes, each which sets forth sufficient detail to implement. The only associated cost is staff time to do so. Any funds received from imposition of civil

penalties do not accrue to the Board's budget. Most are allocated to support the Low-Income Home Energy Assistance Program (LIHEAP).

The chapter does not impose costs on the public or any agency, including the Board, beyond staff time.

- Qualitative description of impact:

Chapter 8 has some level of qualitative impact because it supports ensuring the law is followed as required. The main areas where civil penalties might be assessed are for violations of permits or franchises for electric generating assets, electric transmission lines, telecommunication services, and hazardous pipelines. Each has varying degrees of impact on the health, safety, and level of service to be provided to Iowans.

The agency believes the information contained in Chapter 8 is also stated with sufficient clarity in the operative statutes themselves, and a Board rule restating them does not improve the agency's ability to effectively manage the responsibilities assigned by the Legislature.

3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency:

Because Chapter 8 merely restates and references existing statutes, there are no costs to the public, the agency, or any other agency.

- Anticipated effect on state revenues:

There is no anticipated effect on state revenues.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

Chapter 8 does not impose any costs and also does not provide material benefits.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

The agency has determined that it is less intrusive to simply utilize the existing statutory language without additional reference to a rule that essentially states the same thing.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:

The Board considered rescinding all but rule 199—8.1(476,476A,478,479,479B) of Chapter 8, keeping a consolidated reference to the various statutory provisions.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking:

The agency believes that the restatement of statute is an unnecessary function of an administrative rule.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The agency does not believe Chapter 8 has an adverse impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind and reserve **199—Chapter 8**.

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 199—Chapter 12
“Interstate Natural Gas Pipelines and Underground Storage”

Iowa Code chapters authorizing rulemaking: 476 and 479A
State or federal law(s) implemented by the rulemaking: Iowa Code chapter 479A

Public Hearing

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

September 20, 2023
2 p.m.

Board Hearing Room
1375 East Court Avenue
Des Moines, Iowa

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis. Written comments in response to this Regulatory Analysis must be received by the Iowa Utilities Board no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

IT Support
Iowa Utilities Board
Phone: 515.725.7300
Email: ITSupport@iub.iowa.gov

Purpose and Summary

Chapter 12 is intended to publish state and federal authorizations in regard to interstate natural gas pipelines in the Iowa Administrative Code. The Board is proposing to rescind Chapter 12 because its provisions are duplicative of language contained in Iowa Code chapter 479A. Consequently, the intended benefits of Chapter 12 can be achieved through the provisions of Iowa Code chapter 479A alone.

Analysis of Impact

1. Persons affected by the proposed rulemaking:
 - Classes of persons that will bear the costs of the proposed rulemaking:
Chapter 12 imposes no direct costs on the public. Pipeline companies may incur costs associated with the Board’s oversight and any attorney fees, but these costs are not impacted by Chapter 12.
 - Classes of persons that will benefit from the proposed rulemaking:
No classes of persons will benefit since the chapter is proposed to be rescinded.
2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:
 - Quantitative description of impact:
The Board discerns no quantitative impact.
 - Qualitative description of impact:
The Board discerns no qualitative impact.
3. Costs to the State:
 - Implementation and enforcement costs borne by the agency or any other agency:
There are no anticipated costs.
 - Anticipated effect on state revenues:

There are no anticipated effects on state revenues.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

There are no comparisons.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

Chapter 12 can be rescinded because it does not add to or further clarify existing statutory or federal regulatory requirements.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:

The Board did not consider any alternative methods.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking:

Rescinding the chapter was the only option considered because the information contained in Chapter 12 is available elsewhere.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The agency does not believe Chapter 12 has an adverse impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind and reserve **199—Chapter 12**.

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 199—Chapter 18
“Utility Records”

Iowa Code sections authorizing rulemaking: 476.31 and 546.7

State or federal law(s) implemented by the rulemaking: Iowa Code sections 476.31 and 546.7

Public Hearing

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

September 13, 2023
9 a.m.

Board Hearing Room
1375 East Court Avenue
Des Moines, Iowa

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis. Written comments in response to this Regulatory Analysis must be received by the Iowa Utilities Board no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

IT Support
Iowa Utilities Board
Phone: 515.725.7300
Email: ITSupport@iub.iowa.gov

Purpose and Summary

The purpose of this chapter is to ensure the Board has a methodology to review any necessary records that may pertain to the rules or policies of rate-regulated public utilities and the rates or charges for utility service.

Analysis of Impact

1. Persons affected by the proposed rulemaking:
 - Classes of persons that will bear the costs of the proposed rulemaking:
Electric, gas, water, sanitary sewage, and storm water drainage utilities will bear the costs of the proposed rulemaking.
 - Classes of persons that will benefit from the proposed rulemaking:
Customers of electric, gas, water, sanitary sewage, and storm water drainage utilities and public utilities that are provided notice of the specified requirements will benefit from the proposed rulemaking.
2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:
 - Quantitative description of impact:
This is part of the everyday work of the Board, so there is no additional impact to the Board, economic or otherwise. The utilities may have costs due to the record retention requirements.
 - Qualitative description of impact:
This proposed rulemaking ensures that utilities have accurate and detailed information, if needed by the Board, to enable the Board to review any concerns within the Board’s jurisdiction.
3. Costs to the State:
 - Implementation and enforcement costs borne by the agency or any other agency:

There are no additional costs to any agency other than the normal everyday costs of operation of the Board.

- Anticipated effect on state revenues:
There is no anticipated effect on state revenues.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

There is a benefit in ensuring the utilities are compliant in retaining necessary records to allow the Board to function as the utility regulator with regard to issues within its jurisdiction. For administering this proposed chapter, there are minimal costs involved. Inaction could make it more difficult for the Board to determine where to locate necessary documentation.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

The Board does not believe there are any less costly methods of addressing the purpose of this proposed rulemaking.

6. Alternative methods considered by the agency:
- Description of any alternative methods that were seriously considered by the agency:
Inaction was considered by the Board.
 - Reasons why alternative methods were rejected in favor of the proposed rulemaking:
Inaction is not feasible due to a statutory mandate requiring the Board to adopt rules and policies.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

There is no substantial impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 199—Chapter 18 and adopt the following **new** chapter in lieu thereof:

CHAPTER 18 UTILITY RECORDS

199—18.1(476) Definitions. The following words and terms, when used in this chapter, have the meanings shown below:

“*FCC rules*” means the rules and regulations of the Federal Communications Commission under the Communications Act of 1934 as published in the Code of Federal Regulations (CFR).

“*FERC rules*” means the rules and regulations of the Federal Energy Regulatory Commission under the Federal Power Act and Natural Gas Act as published in the CFR.

“*NARUC guidelines*” means the guidelines published by the National Association of Regulatory Utility Commissioners.

“*RUS rules*” means the rules and regulations of the Rural Utilities Service, 7 CFR Part 1767, of the United States Department of Agriculture applicable to electric and telephone borrowers of the RUS under the terms of their mortgages to the RUS.

199—18.2(476) Location of records. All records kept pursuant to any rules of the board, or necessary for the administration thereof, are to be kept or made accessible within this state unless otherwise authorized by the board, including:

18.2(1) The utility’s tariffs.

18.2(2) A record of the telephone number and business location of the utility’s administrative, technical, and operating personnel within the state.

18.2(3) The most recent inspection report.

18.2(4) The most recent rate case filing.

18.2(5) Annual reports for the past five years.

18.2(6) Shareholder’s reports for the past five years.

18.2(7) Form IG-1 (gas utilities).

18.2(8) Form IE-1 (electric utilities).

18.2(9) Information regarding the location of other books, records, and accounts to be maintained or made accessible pursuant to statute or rule.

199—18.3(476) Availability of records. All records kept pursuant to any rules of the board, which are of a general corporate nature or otherwise pertain to the utility’s operations as a whole, are to be made available for examination by the board at the utility’s principal place of business within this state during normal business hours, unless otherwise authorized by the board. However, any records that pertain to the utility’s operations in only a specific location or geographic region, and that are customarily kept at a local office of the utility at that location or within that region, may be made available at that local office. The board may instruct a utility to notify the board of the nature of records kept at a local office and the locations of the offices.

Upon receipt by a utility of a formal request in writing from the board for records or information pertaining to records required by any board rule, the utility is to provide the requested information to the board within 15 days of receiving the written request from the board unless the utility files an objection to the request or a request for an extension of time within 7 days of the utility’s receipt of the information request. The objection or request for extension of time is to be filed in writing and state the concise grounds for relief. If the board finds that the objection or request for extension of time does not have merit, the information originally requested is to be provided immediately upon receiving notice of the board’s decision.

199—18.4(476) Electric utilities other than rural electric cooperatives.

18.4(1) Units of property. Electric utilities subject to rate regulation are to maintain an accounting system for Units of Property in Accounting for Additions and Retirements of Electric Plant in accordance with rule 199—16.2(476).

18.4(2) Preservation of records. All electric utilities subject to regulation by the board are to preserve the records of their operations in accordance with the provisions of Part 125 of the FERC rules, 18 CFR Part 125, Preservation of Records of Public Utilities and Licensees, as issued on August 15, 2000. Rate-regulated companies further ensure the preservation of records of associated companies, whether or not the associated companies are themselves utilities, as necessary to support the cost of services rendered to the utility by the associated companies.

199—18.5(476) Rural electric cooperatives.

18.5(1) *Units of property.* Rural electric cooperatives (RECs) subject to rate regulation by the board are to adopt the RUS rules contained in RUS 7 CFR Part 1767 published May 27, 2008. The REC is to maintain sufficient records to support additions to plant, retirement units, and replacements of electric plant, in accordance with 7 CFR Part 1767.10, Definitions; 7 CFR Part 1767.15, General Instructions; 7 CFR Part 1767.16, Electric Plant Instructions; and 7 CFR Part 1767.20, Plant Accounts.

18.5(2) *Preservation of records.* RECs are to preserve the records of their operations in accordance with the provisions of the RUS rules contained in RUS Bulletin 180-2, Record Retention Recommendations for RUS Electric Borrowers, issued June 26, 2003.

199—18.6(476) Gas utilities.

18.6(1) *Units of property.* Gas utilities subject to rate regulation are to maintain an accounting system for Units of Property in Accounting for Additions and Retirements of Gas Plant in accordance with rule 199—16.3(476).

18.6(2) *Preservation of records.* All gas utilities subject to regulation by the board are to preserve the records of their operations in accordance with the provisions of FERC rules, 18 CFR Part 225, Preservation of Records of Natural Gas Companies, as issued August 15, 2000. Rate-regulated companies further ensure the preservation of records of associated companies, whether or not the associated companies are themselves utilities, as necessary to support the cost of services rendered to the utility by the associated companies.

199—18.7(476) Water, sanitary sewage, and storm water drainage utilities.

18.7(1) *Units of property.* Water, sanitary sewage, and storm water drainage utilities subject to rate regulation are to maintain an accounting system for Units of Property in Accounting for Additions and Retirements of Water Plant in accordance with rule 199—16.4(476).

18.7(2) *Preservation of records.* All water, sanitary sewage, and storm water drainage utilities subject to regulation by the board are to preserve the records of their operations in accordance with the provisions of the NARUC guidelines: Regulations to Govern the Preservation of Records of Electric, Gas and Water Utilities, revised October 2007 edition. Regulated water, sanitary sewage, and storm water drainage utilities further ensure the preservation of records of associated companies, whether or not the associated companies are themselves utilities, as necessary to support the cost of services rendered to the utility by the associated companies.

These rules are intended to implement Iowa Code sections 476.31 and 546.7.

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 199—Chapter 27
 “Regulation of Electric Cooperatives and Municipal Electric Utilities
 Under Iowa Code Chapter 476”

Iowa Code sections authorizing rulemaking: 476.1A, 476.1B, and 476.2
 State or federal law(s) implemented by the rulemaking: Iowa Code sections 476.1A, 476.1B, and 476.20

Public Hearing

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

September 25, 2023
 9 a.m.

Board Hearing Room
 1375 East Court Avenue
 Des Moines, Iowa

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis. Written comments in response to this Regulatory Analysis must be received by the Iowa Utilities Board no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

IT Support
 Iowa Utilities Board
 Phone: 515.725.7300
 Email: ITSupport@iub.iowa.gov

Purpose and Summary

The chapter implements the jurisdiction of the Board over electric cooperatives and municipal electric utilities. The rules establish definitions of standards for safety and engineering, filing requirements for modifications to exclusive service territories, customer disconnection requirements, contribution fund requirements, electric vehicle rules, and exterior lighting requirements. Each rule is authorized by the statutory listing of Board jurisdiction.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

- Classes of persons that will bear the costs of the proposed rulemaking:

Electric cooperatives and municipal electric utilities will bear any costs associated with compliance with the proposed rules in Chapter 27. The actions that are required by the rules are mandated by statute, and the rules describe the actions that need to be taken to comply with the statutory requirements. There may be some costs associated with requesting Board approval or in addressing complaints from electric cooperative or municipal electric utility customers. Most of the actions required by the rules are actions the utilities would need to take in the ordinary course of providing service to customers.

- Classes of persons that will benefit from the proposed rulemaking:

Electric cooperatives and municipal electric utilities will benefit, as will their customers, from standard requirements that each utility will need to comply with. Customers will know how the utilities are meeting the requirements for providing service and will know that there are minimum standards to ensure the safety and reliability of electric service and customer protections.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:

- Quantitative description of impact:

The proposed rulemaking does not impose any significant costs on electric cooperatives or municipal electric utilities that are inconsistent with national standards or statutory requirements. Costs with complying with the engineering and safety standards and customer protections from improper disconnections are required for the utility to provide safe and adequate electric service. The quantitative impact of the rules will be consistent with the utility providing electric service.

- Qualitative description of impact:

The qualitative impact of the proposed rulemaking is that it ensures that the electric cooperative and municipal electric utility provide electric service consistent with national standards and Iowa statutes.

3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency:

There are no additional costs to the Board from implementation or enforcement by the Board. The primary cost occurs in responding to informal complaints from electric cooperative and municipal electric utility customers, and those costs are part of the duties of Board staff.

- Anticipated effect on state revenues:

There is no anticipated effect on state revenues. Costs of the Board are paid by utility ratepayers, and any actions required of the Board are directly billed to the utility causing the cost.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

The costs associated with the requirements in the rules are the same costs that each utility should undertake to provide safe and adequate electric service and to comply with Iowa statutory requirements. The benefits are that electric service to customers will be in compliance with national standards and customers will know what rights and remedies they have with regard to disconnection of electric service.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

The Board has not found a less costly method of establishing requirements for electric service as required by Iowa Code sections 476.1A and 476.1B. Revisions to these statutory sections have recently been enacted, and those revisions establish the provisions in Iowa Code chapter 476 with which each electric cooperative and municipal electric utility is required to comply.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:

The Board has not considered any alternative methods because the recently enacted provisions of Iowa Code sections 476.1A and 476.1B establish what areas need to be addressed by the Board.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking:

No alternative methods were considered by the Board.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.

- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.

- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

These rules only affect electric cooperatives and municipal electric utilities.

Text of Proposed Rulemaking

ITEM 1. Rescind 199—Chapter 27 and adopt the following **new** chapter in lieu thereof:

CHAPTER 27
REGULATION OF ELECTRIC COOPERATIVES AND MUNICIPAL ELECTRIC UTILITIES
UNDER IOWA CODE CHAPTER 476

199—27.1(476) General information. Iowa Code section 476.2(1) provides that the Iowa utilities board has authority to establish all needful, just and reasonable rules, not inconsistent with law, to govern the exercise of its powers and duties, the practice and procedure before it, and to govern the form, content and filing of reports, documents and other papers provided for in Iowa Code chapter 476 or in the board's rules.

27.1(1) Application of rules. The rules apply to electric cooperatives and municipal electric utilities operating within the state of Iowa subject to Iowa Code sections 476.1A and 476.1B, and to the construction, operation and maintenance of electric transmission lines to the extent provided in Iowa Code chapter 478, and supersede all tariffs on file with the board that are in conflict with these rules.

27.1(2) Regulation of electric cooperatives. Iowa Code section 476.1A provides that electric cooperatives are not subject to the regulation of the board, except for regulatory action pertaining to the following:

- a. Assessment of fees for the support of the board and the office of consumer advocate pursuant to Iowa Code section 476.10.
- b. Safety standards and engineering standards.
- c. Assigned service areas, as set forth in Iowa Code sections 476.22 through 476.25.
- d. Public utility railroad crossings, as set forth in Iowa Code section 476.27.
- e. Filing of alternative energy purchase program plans with the board, and offering such programs to customers, pursuant to Iowa Code section 476.47.
- f. Iowa Code sections 476.20(1) through 476.20(4), 476.21, 476.51, 476.56, 476.58, 476.62, and 476.66 and chapters 476A and 478, to the extent applicable.

27.1(3) Regulation of municipal electric utilities. Iowa Code section 476.1B provides that municipal electric utilities are not subject to regulation by the board under Iowa Code chapter 476, except for regulatory action pertaining to the following:

- a. Assessment of fees for the support of the board and the office of consumer advocate.
- b. Safety standards.
- c. Assigned areas of service as set forth in Iowa Code sections 476.22 through 476.26.
- d. Public utility railroad crossings, as set forth in Iowa Code section 476.27.
- e. An electric power agency as defined in Iowa Code chapter 28F and section 390.9 that includes as a member a city- or municipality-owned utility that builds transmission facilities after July 1, 2001, is subject to applicable transmission reliability rules or standards adopted by the board for these facilities.
- f. Filing alternate energy purchase program plans with the board, and offering such programs to customers, pursuant to Iowa Code section 476.47.
- g. Iowa Code sections 476.20(1) through 476.20(4), 476.51, 476.56, 476.58, 476.62, and 476.66, as applicable.

h. An electric utility subject to regulatory action pursuant to Iowa Code section 476.1A is subject to complaints and investigations as set forth in Iowa Code section 476.3, but only with regard to matters within the regulatory authority of the board as set forth in Iowa Code sections 476.3(1) and 476.3(2).

27.1(4) Definitions. The following words and terms, when used in these rules, have the meanings indicated below:

“*Capacity*” means the instantaneous rate at which energy can be delivered, received, or transferred, measured in kilowatts.

“*Complaint*” means a statement or question by any person, whether a utility customer or not, alleging a wrong, grievance, injury, dissatisfaction, illegal action or procedure, dangerous condition or action, or obligation of an electric cooperative or municipal electric utility.

“*Customer*” means any person, firm, association, or corporation; any agency of the federal, state or local government; or any legal entity responsible by law for payment for the electric service or heat from the electric cooperative or municipal electric utility.

“*Delinquent*” or “*delinquency*” means an account for which a service bill or service payment agreement bill has not been paid in full on or before the last day for timely payment.

“*Distribution line*” means any single or multiphase electric power line operating at nominal voltage in either of the following ranges: 2,000 to 26,000 volts between ungrounded conductors or 1,155 to 15,000 volts between grounded and ungrounded conductors, regardless of the functional service provided by the line.

“*Electric plant*” includes all real estate, fixtures and property owned, controlled, operated or managed in connection with or to facilitate production, generation, transmission or distribution in providing electric service or heat by an electric utility.

“*Electric service*” means furnishing electricity to the public for compensation for use as heat, light, power, or energy.

“*Energy*” means electric energy measured in kilowatt hours.

“*Engineering standards*” means standards adopted by the American National Standards Institute (ANSI), or the Institute of Electrical and Electronics Engineers (IEEE) or Rural Utilities Service (RUS), or comparable engineering organization or engineering standards adopted by the board.

“*Major event*” means when an event results in extensive physical damage to transmission or distribution facilities within an electric cooperative or municipal electric utility’s operating area due to unusually severe and abnormal weather or event and:

1. Wind speed exceeds 90 mph for the affected area, or
2. One-half inch of ice is present and wind speed exceeds 40 mph for the affected area, or
3. 10 percent of the affected area total customer count is incurring a loss of service for a length of time to exceed five hours, or
4. 20,000 customers in a metropolitan area are incurring a loss of service for a length of time to exceed five hours, or
5. A regional transmission organization or independent system operator declares an energy emergency alert that the organization can no longer provide expected energy requirements or has lower than established reserves, implements procedures up to shedding load, declares a maximum generation warning, declares conservative operations, or calls a maximum generation alert event in compliance with North American Electric Reliability Corporation requirements.

“*Meter*” means, unless otherwise qualified, a device that measures and registers the integral of an electrical quantity with respect to time.

“*Power*” means electric power measured in kilowatts.

“*Rates*” means the same as defined in Iowa Code section 384.80 and includes all charges or fees imposed or collected for the provision of or incidental to utility service.

“*Safety standard*” means applicable regulations promulgated by the United States Occupational Safety and Health Administration. Safety standards for electric utilities subject to Iowa Code section 476.1A also include outage notifications, safety standards contained in the National Electrical Safety Code, as published by the Institute of Electrical and Electronic Engineers, Inc., and electric safety standards approved by the American National Standards Institute.

“*Secondary line*” means any single or multiphase electric power line operating at nominal voltage less than either 2,000 volts between ungrounded conductors or 1,155 volts between grounded and ungrounded conductors, regardless of the functional service provided by the line.

“*Service limitation*” means the establishment of a limit on the amount of power that may be consumed by a residential customer through the installation of a service limiter device on the customer’s meter.

“*Tariff*” means the service classifications, rules, procedures, and policies filed with and approved by the board.

“*Timely payment*” means a payment on a customer’s account made on or before the date shown on a current bill for service, or on a form that records an agreement between the customer and a utility for a series of partial payments to settle a delinquent account, as the date which determines application of a late payment charge to the current bill or future collection efforts.

“*Transmission line*” means any single or multiphase electric power line operating at nominal voltages at or in excess of either 69,000 volts between ungrounded conductors or 40,000 volts between grounded and ungrounded conductors, regardless of the functional service provided by the line.

27.1(5) Abbreviations. The following abbreviations are used in this chapter where appropriate:

ANSI—American National Standards Institute, www.ansi.org.

IEEE—Institute of Electrical and Electronics Engineers, www.ieee.org.

NESC—National Electrical Safety Code.

NFPA—National Fire Protection Association, www.nfpa.org.

RUS—United States Department of Agriculture Rural Utilities Service, www.rd.usda.gov/about-rd/agencies/rural-utilities-service.

27.1(6) Electric cooperative service rules tariffs. Electric cooperatives subject to the board’s jurisdiction under Iowa Code section 476.1A maintain tariffs in the board’s electronic filing system, which are consistent with the rules in this chapter and that are approved by the board.

a. Those portions of their tariff or tariff pages regarding matters over which the board has jurisdiction are to be filed with strikethroughs for the language deleted and underlining of the language that is added.

b. Portions of electric cooperative tariffs that are nonjurisdictional are to be identified in the tariff.

c. An electric cooperative association may file a model tariff for board approval that may be adopted by an electric cooperative with any revisions the electric cooperative proposes to the model tariff.

d. Tariffs approved by the board are to be made available to all customers.

27.1(7) Municipal electric utilities service rules. Municipal electric utilities do not have to file tariffs with the board implementing the provisions in this chapter; however, municipal utilities service rules or other legally enforceable provisions are to be consistent with the provisions in this chapter.

a. A municipal electric utility’s rules or other legally enforceable provisions implementing the requirements of this chapter are to be available to all customers.

b. A municipal electric utility may adopt a model ordinance prepared by a municipal utility association that has been approved by the board.

199—27.2(476) Assigned area of service and maps.

27.2(1) Service areas. Service areas are defined by the boundaries on service area maps. Electronic maps are available for viewing during regular business hours at the board’s offices. Maps are also available for viewing on the board’s website. These service area maps are the official electric service territory maps pursuant to Iowa Code section 476.24.

27.2(2) Modification of service area and answers.

a. An exclusive service area is subject to modification through a contested case proceeding, which may be commenced by filing a petition for modification of service area with the board. The board may commence a service area modification proceeding on its own motion. The board may grant a modification if the modification promotes the public interest. In determining whether the modification is in the public

interest, the board will consider the factors described in Iowa Code section 476.25(1) and any other relevant factors.

b. Any electric cooperative or municipal electric utility may file a petition for modification of service area, which includes:

- (1) A legal description of the service area desired,
- (2) A designation of the utilities involved in each boundary section,
- (3) A justification for the proposed service area modification, including addressing the public interest,
- (4) A PDF (Portable Document Format) map, an electronic file of the proposed service area boundaries, in a format designated by the board, as described on the electronic filing system (EFS) homepage under EFS filing standards, and
- (5) A map showing the affected areas that complies with the map paragraph contained within this chapter are to be attached to the petition as an exhibit.

c. Electric cooperatives and municipal electric utilities may agree with other electric utilities to service territory modifications by contract pursuant to Iowa Code section 476.25(2). Contracts to be enforceable are to be approved by the board.

27.2(3) Certificate of authority. A request for a service territory modification filed by an electric cooperative or municipal electric utility pursuant to this rule that would result in service to a customer by a public utility other than the public utility currently serving the customer will need a certificate of authority under Iowa Code section 476.23. Unless voluntarily agreed otherwise, the party currently serving the customer is to be paid a reasonable price for the facilities serving the customer.

27.2(4) Maps.

a. Each electric cooperative and municipal electric utility is to maintain a current map or set of maps showing the physical location of electric lines, stations, and electric transmission facilities for its service areas. The maps are to include the exact location of the following:

- (1) Generating stations, with capacity designation.
- (2) Purchased power supply points, with maximum contracted capacity designation.
- (3) Purchased power metering points if located at other than power delivery points.
- (4) Transmission lines, with size and type of conductor designation and operating voltage designation.
- (5) Transmission-to-transmission voltage transformation substations, with transformer voltage and capacity designation.
- (6) Transmission-to-distribution voltage transformation substations, with transformer voltage and capacity designation.
- (7) Distribution lines, with size and type of conductor designation, phase designation and voltage designation.
- (8) All points at which transmission, distribution or secondary lines of the utility cross Iowa state boundaries.
- (9) All current information required in Iowa Code section 476.24(1).
- (10) All county boundaries and county names.
- (11) Natural and artificial lakes that cover more than 50 acres and all rivers.
- (12) Any additional information required by the board.

b. All maps, except those deemed confidential by the board, are to:

- (1) Be available for examination at the designated offices of the electric cooperative or municipal electric utility during regular office hours,
- (2) Include maps drawn with clean, uniform lines to a scale of one inch per mile,
- (3) Include a large scale where it is necessary to clarify areas where there is a heavy concentration of facilities, and
- (4) Ensure that cartographic details are clean cut, and the background contains little or no coloration or shading.

199—27.3(476) Customer relations.

27.3(1) Notification to customers by bill insert.

a. Each utility shall notify its customers, by bill insert or notice on the bill form, of the address and telephone number where a utility representative qualified to assist in resolving the complaint can be reached, and include the following statement: “If (utility name) does not resolve your complaint, you may request assistance from the Iowa Utilities Board by calling (515) 725-7300 or toll-free 877-565-4450; by writing to 1375 E. Court Ave., Des Moines, IA 50319-0069; or by email to customer@iub.iowa.gov.” The utility may use different language with board approval. A utility that bills by postcard may place an advertisement in a local newspaper of general circulation or a customer newsletter instead of a mailing.

b. The bill insert or notice shall be provided to customers at least annually. Any utility that does not use the standard statement described in this subrule shall file its proposed statement for board approval. A utility that bills by postcard may place an advertisement in a local newspaper of general circulation or a customer newsletter instead of a mailing. The advertisement must be of a type size that is easily legible and conspicuous and must contain the information required in paragraph 27.3(1) “*a.*”

27.3(2) Payment agreements.

a. Availability of a first payment agreement. When a residential customer cannot pay in full a delinquent bill for utility service or has an outstanding debt to the electric cooperative or municipal electric utility for residential utility service and is not in default of a payment agreement with the electric cooperative or municipal electric utility, an electric cooperative or municipal electric utility shall offer the customer an opportunity to enter into a reasonable payment agreement. The offer of a payment agreement is to be made prior to disconnection. The electric cooperative or municipal electric utility is not required to offer a customer who has been disconnected from service a payment agreement consistent with these rules, unless the utility did not comply with these rules prior to disconnection.

b. Reasonableness. Whether a payment agreement is reasonable will be determined by considering the current household income, ability to pay, payment history including prior defaults on similar agreements, the size of the bill, the amount of time and the reasons why the bill has been outstanding, and any special circumstances creating extreme hardships within the household. The electric cooperative or municipal electric utility may require the person to confirm financial difficulty with an acknowledgment from the department of health and human services or another agency.

c. Terms of payment agreements.

(1) First payment agreement. The following conditions are to be offered to customers who have received a disconnection notice and are not in default of a payment agreement:

1. For customers who received a disconnection notice in conformance with these rules, an agreement with at least 12 even monthly payments. A customer may pay off the delinquency early without incurring any prepayment penalties. A customer will not be charged interest, or a late payment charge, on a payment agreement where the customer is making payments consistent with the terms of the payment agreement, and the customer will not be required to pay a portion of the delinquent amount to enter into a payment agreement.

2. A provision for payment of the current amount owed by the customer.

3. The electric cooperative or municipal electric utility may also require the customer to enter into a budget billing plan to pay the current bill.

4. When the customer makes the agreement in person, a signed copy of the agreement is to be provided to the customer.

5. The electric cooperative or municipal electric utility may offer the customer the option of making the agreement over the telephone or through electronic transmission.

6. A written agreement when a payment agreement is made over the telephone or through electronic transmission is to be provided to the customer within three days of the date the oral or electronic agreement is entered into.

7. The document will be considered provided to the customer when addressed to the customer’s last-known address and deposited in the U.S. mail with postage paid. If delivery is by other than U.S. mail, the document will be considered provided to the customer when delivered to the last-known address of the person responsible for payment for the service.

8. The payment agreement is deemed accepted by the customer unless the customer notifies the utility otherwise within ten days from the date the document is provided. The address and toll-free telephone number where a qualified representative can be reached is to be included in the payment agreement.

9. Once the first payment required by the agreement is made by the customer or on behalf of the customer, the oral or electronic agreement is deemed accepted by the customer.

10. Each customer entering into a first payment agreement is allowed at least one late payment that is four days or less beyond the due date for payment, and the first payment agreement remains in effect.

11. The initial payment is due on the due date for the next regular bill.

(2) Second payment agreement. A second payment agreement is to be offered to a customer who is in default of a first payment agreement if the customer has made at least two consecutive full payments under the first payment agreement.

1. The second payment agreement will be for a term at least as long as the term of the first payment agreement and the customer is to pay for current service in addition to the monthly payments.

2. The customer may be required to make the first payment up front as a condition of entering into the second payment agreement.

3. The electric cooperative or municipal electric utility may also require the customer to enter into a budget billing plan to pay the current bill.

(3) Additional payment agreements. The electric cooperative or municipal electric utility may offer additional payment agreements to the customer.

d. Refusal by electric cooperative or municipal electric utility. A customer may offer the electric cooperative or municipal electric utility a proposed payment agreement. If the electric cooperative or municipal electric utility and the customer do not reach an agreement, the electric cooperative or municipal electric utility may refuse the offer orally, but the electric cooperative or municipal electric utility will provide a written refusal to the customer, stating the reason for the refusal, within three days of the oral notification. The written refusal is considered provided to the customer when addressed to the customer's last-known address and deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the written refusal is considered provided to the customer when handed to the customer or when delivered to the last-known address of the person responsible for the payment for the service.

e. Customer request for assistance. A customer may ask the board for assistance in working out a reasonable payment agreement. The request for assistance is to be made to the board within ten days after the written refusal is provided and disconnection will not take place during the board's review.

27.3(3) Bill payment terms. The bill is to be considered provided to the customer when deposited in the U.S. mail with postage prepaid or sent by electronic mail to the customer, if agreed to by the customer. If delivery is by other than U.S. mail, the bill is to be considered provided when delivered to the last-known address of the party responsible for payment, or to the last-known email address of the customer. A bill becomes delinquent not less than 20 days from the date the bill is provided to the customer. Bills for customers on more frequent billing intervals are not considered delinquent if less than 5 days from the date the bill is provided, and a late payment charge is not assessed if payment is received within 20 days of the date the bill is provided.

a. The date of delinquency for all residential customers or other customers whose consumption is less than 3,000 kWh per month is changeable for cause; such as, but not limited to, 15 days from the approximate date each month upon which income is received by the person responsible for payment. Thirty days beyond the date of delinquency is the maximum delay allowed.

b. In any case where net and gross amounts are billed to customers, the difference between net and gross is a late payment charge and is valid only when part of a delinquent bill payment. A utility's late payment charge is limited to 1.5 percent per month of the past due amount. No collection fee may be levied in addition to this late payment charge.

c. If the customer makes partial payment in a timely manner, and does not designate the service or product for which payment is made, the payment is to be credited pro rata between the bill for utility services and related taxes.

d. Each account is allowed not less than one complete forgiveness of a late payment charge each calendar year. The utility's rules are to include that on one monthly bill in each period of eligibility, the utility will accept the net amount of such bill as full payment for such month after expiration of the net payment period. The rules are to state how the customer is notified that the eligibility has been used. Complete forgiveness has no effect upon the credit rating of the customer or collection of late payment charges.

27.3(4) Adjustment of bills for meter error. Electric cooperatives and municipal electric utilities are to establish meter testing standards and procedures for customers who have complaints about the accuracy of the customer's meter. The meter testing standards are to be made available to a customer upon request.

199—27.4(476) Disconnection of service.

27.4(1) Disconnection procedures and notice. Electric cooperatives and municipal electric utilities may only disconnect service to customers in compliance with the following procedure and requirements:

a. Service may be disconnected without notice:

- (1) In the event of a condition on the customer's premises determined by the utility to be hazardous.
- (2) In the event of customer use of equipment in a manner which adversely affects the utility's equipment or the utility's service to others.
- (3) In the event of tampering with the equipment furnished and owned by the utility. A broken or absent meter seal alone does not constitute tampering.
- (4) In the event of unauthorized use.

b. The electric cooperative or municipal electric utility shall give written notice of pending disconnection, except as specified in paragraph 27.4(1) "a." The notice includes the reason for the notice and the final date by which the account is to be settled or specific action taken. The notice is to be addressed to the customer's last-known address and deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the notice is to be delivered to the last-known address of the person responsible for payment for the service. The date for disconnection of service is not to be less than 12 days after the notice is provided. The date for disconnection of service for customers on shorter billing intervals is not to be less than 24 hours after the notice is posted at the service premises.

c. Where more than one cause of disconnection exists, one written notice is to be given that includes all reasons for the notice. In determining the final date by which the account is to be settled or other specific action taken, the days of notice for the causes run concurrently.

d. Service may be disconnected after proper notice:

- (1) For violation of or noncompliance with the utility's rules.
- (2) For failure of the customer to furnish the service equipment, permits, certificates, or rights-of-way which are specified to be furnished, in the utility's rules filed with the board, as conditions of obtaining service, or for the withdrawal of that same equipment, or for the termination of those same permissions or rights, or for the failure of the customer to fulfill the contractual obligations imposed as conditions of obtaining service by any contract filed with and subject to the regulatory authority of the board.
- (3) For failure of the customer to permit the utility reasonable access to the utility's equipment.

e. Service may be disconnected after proper notice for nonpayment of a bill or deposit, provided that the electric cooperative or municipal electric utility has complied with the following provisions:

- (1) Given the customer a reasonable opportunity to dispute the reason for the disconnection or refusal.
- (2) Given the customer, and any other person or agency designated by the customer, written notice that the customer has at least 12 days in which to make settlement of the account to avoid disconnection and a written summary of the rights and responsibilities set out in subrule 27.4(2). Customers billed more frequently than monthly are to be given posted written notice that they have 24 hours to make settlement of the account to avoid disconnection and a written summary of the rights and responsibilities. All written notices include a toll-free or collect telephone number where a utility representative qualified to provide additional information about the disconnection can be reached. Each electric cooperative or municipal

electric utility representative provides the representative's name and have immediate access to current, detailed information concerning the customer's account and previous contacts with the utility.

(3) A service limitation policy includes the following sentence: "Service limitation: We have adopted a limitation of service policy for customers who otherwise could be disconnected. Contact our business office for more information or to learn if you qualify."

(4) When disconnecting service to a residence, a diligent attempt is to be made to contact, by telephone or in person, the customer responsible for payment for service to the residence to inform the customer of the pending disconnection and the customer's rights and responsibilities. Between November 1 and April 1, if the attempt at customer contact fails, the premises are to be posted at least one day prior to disconnection with a notice informing the customer of the pending disconnection and a copy of the rights and responsibilities available to avoid disconnection.

1. If an attempt at personal or telephone contact of a customer occupying a rental unit has been unsuccessful, the electric cooperative or municipal electric utility is to make a diligent attempt to contact the landlord of the rental unit, if known, to determine if the customer is still in occupancy and, if so, the customer's present location. The landlord is to be informed of the date when service may be disconnected. The electric cooperative or municipal electric utility will make a diligent attempt to inform the landlord at least 48 hours prior to disconnection of service to a tenant.

2. If the disconnection will affect occupants of residential units leased from the customer, the premises of any building known by the electric cooperative or municipal electric utility to contain residential units affected by disconnection are to be posted at least two days prior to disconnection, with a notice informing any occupants of the date when service will be disconnected and the reasons for the disconnection.

3. If the customer has received notice of disconnection and has a dispute concerning a bill for electric service, the electric cooperative or municipal electric utility may require the customer to pay a sum of money equal to the amount of the undisputed portion of the bill pending settlement and thereby avoid disconnection of service. Disconnection for nonpayment of the disputed bill is delayed for up to 45 days after the providing of the bill if the customer pays the undisputed amount. The 45 days may be extended by up to 60 days if requested of the utility by the board in the event the customer files a written complaint with the board in compliance with 199—Chapter 6.

f. Disconnection of a residential customer may take place only between the hours of 6 a.m. and 2 p.m. on a weekday and not on weekends or holidays. If a disconnected customer makes payment or other arrangements during normal business hours, or by 7 p.m. for utilities permitting such payment or other arrangements after normal business hours, all reasonable efforts are to be made to reconnect the customer that day. If a disconnected customer makes payment or other arrangements after 7 p.m., all reasonable efforts are to be made to reconnect the customer not later than 11 a.m. the next day.

g. A disconnection is not to take place where electricity is used as the only source of space heating or to control or operate the only space heating equipment at a residence when the actual temperature or the 24-hour forecast of the National Weather Service for the residence's area is predicted to be 20 degrees Fahrenheit or colder. If the electric cooperative or municipal electric utility has properly posted a disconnect notice but is precluded from disconnecting service because of severe cold weather, the utility may immediately proceed with appropriate disconnection procedures, without further notice, when the temperature in the residence's area rises above 20 degrees Fahrenheit and is forecasted to remain above 20 degrees Fahrenheit for at least 24 hours, unless the customer has paid in full the past due amount or is otherwise entitled to postponement of disconnection.

h. Disconnection of a residential customer will be postponed if the disconnection of service would present an especial danger to the health of any permanent resident of the premises.

(1) An especial danger to health is indicated if a person appears to be seriously impaired and may, because of mental or physical problems, be unable to manage the person's own resources, to carry out activities of daily living or to be protected from neglect or hazardous situations without assistance from others. Indicators of an especial danger to health include but are not limited to age, infirmity, or mental incapacitation; serious illness; physical disability, including blindness and limited mobility; and any other factual circumstances that indicate a severe or hazardous health situation.

(2) The electric cooperative or municipal electric utility may require written verification of the especial danger to health by a physician or a public health official, including the name of the person endangered; a statement that the person is a resident of the premises in question; the name, business address, and telephone number of the certifying party; the nature of the health danger; and approximately how long the danger will continue. Initial verification by the verifying party may be by telephone if written verification is forwarded to the utility within five days.

(3) Verification will postpone disconnection for 30 days. In the event service is terminated within 14 days prior to verification of illness by or for a qualifying resident, service is to be restored to that residence if a proper verification is thereafter made in accordance with the foregoing provisions. If the customer does not enter into a reasonable payment agreement for the retirement of the unpaid balance of the account within the first 30 days and does not keep the current account paid during the period that the unpaid balance is to be retired, the customer is subject to disconnection.

i. Winter energy assistance (November 1 through April 1). If the electric cooperative or municipal electric utility is informed that the customer's household may qualify for winter energy assistance or weatherization funds, service is not to be disconnected for 30 days from the date the electric cooperative or municipal electric utility is notified to allow the customer time to obtain assistance. Disconnection of service is not allowed from November 1 through April 1 for a resident who is a head of household and who has been certified to the electric cooperative or municipal electric utility by the community action agency as eligible for either the low-income home energy assistance program or the weatherization assistance program.

j. Military service deployment. If the electric cooperative or municipal electric utility is informed that one of the heads of household as defined in Iowa Code section 476.20 is a service member deployed for military service, as defined in Iowa Code section 29A.90, disconnection cannot take place at the residence during the deployment or prior to 90 days after the end of the deployment.

k. Abnormal electric consumption. A customer who is subject to disconnection for nonpayment of bill, and who has electric consumption that appears to the customer to be abnormally high, may request the utility provide assistance in identifying the factors contributing to this usage pattern and to suggest remedial measures. Assistance will be provided by the electric cooperative or municipal electric utility by discussing patterns of electric usage that may be readily identifiable, suggesting that an energy audit be conducted, and identifying sources of energy conservation information and financial assistance available to the customer.

l. An electric cooperative or municipal electric utility may disconnect electric service after 24-hour notice (and without the written 12-day notice) for failure of the customer to comply with the terms of a payment agreement.

m. Prior to November 1, a notice describing the availability of winter energy assistance funds and the application process is to be mailed to customers. The notice is to be of a type size that is easily legible and conspicuous and contain the information set out by the state agency administering the assistance program. A utility serving fewer than 25,000 customers may publish the notice in a customer newsletter in lieu of mailing. An electric cooperative or municipal electric utility serving fewer than 6,000 customers may publish the notice in an advertisement in a local newspaper of general circulation or shopper's guide.

27.4(2) Notice of customer rights and responsibilities. The standard form of the summary of the rights and responsibilities to be provided to customers is set out below, and will be provided by an electric cooperative or municipal electric utility with all disconnection notices. A non-standard rights and responsibilities notice may be used with board approval. The standard customer rights and responsibilities notice is as follows:

CUSTOMER RIGHTS AND RESPONSIBILITIES TO AVOID SHUTOFF OF ELECTRIC SERVICE FOR NONPAYMENT

1. What can I do if I receive a notice from the utility that says my service will be shut off because I have a past due bill?

- a. Pay the bill in full;
- b. Enter into a reasonable payment plan with the utility (see #2 below);

- c. Apply for and become eligible for low-income energy assistance (see #3 below);
- d. Give the electric cooperative or municipal electric utility a written statement from a doctor or public health official stating that shutting off your electric service would pose an especial health danger for a person living at the residence (see #4 below); or
- e. Tell the utility if you think part of the amount shown on the bill is wrong. However, you must still pay the part of the bill you agree you owe the utility (see #5 below).

2. How do I go about making a reasonable payment plan? (Residential customers only)

- a. Contact the electric cooperative or municipal electric utility as soon as you know you cannot pay the amount you owe. If you cannot pay all the money you owe at one time, you are to be offered a payment plan that spreads payments evenly over at least 12 months. The plan may be longer depending on your financial situation.
- b. If you have not made the payments you promised in a previous payment plan with the utility and still owe money, you may qualify for a second payment agreement under certain conditions.
- c. If you do not make the payments you promise, the utility may shut off your electric service on one day's notice, unless all the money you owe the utility is paid or you enter into another payment agreement.

3. How do I apply for low-income energy assistance? (Residential customers only)

a. Applications are taken at your local community action agency. If you are unsure where to apply, call 211 or 800-244-7431, or visit humanrights.iowa.gov/dcaa/low-income-home-energy-assistance-liheap. To prevent disconnection, contact the utility prior to disconnection of your service.

b. To avoid disconnection, apply for energy assistance or weatherization before your service is shut off. Notify your utility that you may be eligible and have applied for energy assistance. Once your service has been disconnected, it will not be reconnected based on approval for energy assistance.

c. Being certified eligible for energy assistance will prevent your service from being disconnected from November 1 through April 1.

4. What if someone living at the residence has a serious health condition? (Residential customers only)

Contact the electric cooperative or municipal electric utility if you believe this is the case. Contact your doctor or a public health official and ask the doctor or health official to contact the utility and state that shutting off your electric service would pose an especial health danger for a person living at your residence. The doctor or public health official must provide a written statement to the electric cooperative's or municipal electric utility's office within five days of when your doctor or public health official notifies the utility of the health condition; otherwise, your electric service may be shut off. If the utility receives this written statement, your service will not be shut off for 30 days. This 30-day delay is to allow you time to arrange payment of your utility bill or find other living arrangements. After 30 days, your service may be shut off if payment arrangements have not been made.

5. What should I do if I believe my bill is not correct?

You may dispute your bill by telling the electric cooperative or municipal electric utility that you dispute the bill and paying the part of the bill you think is correct. If you do this, the utility will not shut off your service for 45 days from the date the bill was mailed while you and the electric cooperative or municipal electric utility work out the dispute over the part of the bill you think is incorrect. You may ask the Iowa Utilities Board for assistance in resolving the dispute (see #9 below).

6. When can the electric cooperative or municipal electric utility shut off my electric service because I have not paid my bill?

- a. Your electric cooperative or municipal electric utility can shut off service between the hours of 6 a.m. and 2 p.m. Monday through Friday.
- b. The electric cooperative or municipal electric utility will not shut off your service on nights, weekends, or holidays for nonpayment of a bill.
- c. The electric cooperative or municipal electric utility will not shut off your service if you enter into a reasonable payment plan to pay the overdue amount (see #2 above).

d. The electric cooperative or municipal electric utility will not shut off your service if the temperature is forecasted to be 20 degrees Fahrenheit or colder during the following 24-hour period, including the day your service is scheduled to be shut off.

e. If you have qualified for low-income energy assistance, the electric cooperative or municipal electric utility cannot shut off your service from November 1 through April 1. However, you will still owe the electric cooperative or municipal electric utility for the service used during this time.

f. The electric cooperative or municipal electric utility will not shut off your service if you have notified the electric cooperative or municipal electric utility that you dispute a portion of your bill and you pay the part of the bill that you agree is correct.

g. If one of the heads of household is a service member deployed for military service, electric service cannot be shut off during the deployment or within 90 days after the end of deployment. In order for this exception to disconnection to apply, the electric cooperative or municipal electric utility will need to be informed of the deployment prior to disconnection. However, you will still owe the electric cooperative or municipal electric utility for service used during this time.

7. How will I be told the electric cooperative or municipal electric utility is going to shut off my service?

a. You are to be given a written notice at least 12 days before the electric service can be shut off for nonpayment. This notice will include the reason for shutting off your service.

b. If you have not made payments required by an agreed-upon payment plan, your service may be disconnected with only one day's notice.

c. There should be an attempt, by the electric cooperative or municipal electric utility, to reach you by telephone or in person before it shuts off your service. From November 1 through April 1, if the electric cooperative or municipal electric utility cannot reach you by telephone or in person, the electric cooperative or municipal electric utility will put a written notice on the door of or another conspicuous place at your residence to tell you that your electric service will be shut off.

8. If service is shut off, when will it be turned back on?

a. The electric cooperative or municipal electric utility will turn your service back on if you pay the whole amount you owe.

b. If you make your payment during regular business hours, or by 7 p.m. for electric cooperatives or municipal electric utilities permitting such payment or other arrangements after regular business hours, the electric cooperative or municipal electric utility must make a reasonable effort to turn your service back on that day. If service cannot reasonably be turned on that same day, the utility is to do it by 11 a.m. the next day.

c. The electric cooperative or municipal electric utility may charge you a fee to turn your service back on. That fee may be higher in the evening or on weekends, so you may ask that your service be turned on during normal utility business hours.

9. Is there any other help available besides my electric cooperative or municipal electric utility?

If the electric cooperative or municipal electric utility has not been able to help you with your problem, you may contact the Iowa Utilities Board toll-free at 877-565-4450. You may also write the Iowa Utilities Board at 1375 E. Court Ave., Des Moines, IA 50319-0069, or email customer@iub.iowa.gov. Low-income customers may also be eligible for free legal assistance from Iowa Legal Aid and may contact Iowa Legal Aid at 800-532-1275.

27.4(3) When disconnection is not allowed.

a. No disconnection may take place from November 1 through April 1 for a resident who has been certified to the public utility by the local community action agency as being eligible for either the low-income home energy assistance program or weatherization assistance program.

b. If the electric cooperative or municipal electric utility is informed that one of the heads of household as defined in Iowa Code section 476.20 is a service member deployed for military service, as defined in Iowa Code section 29A.90, disconnection cannot take place at the residence during the deployment or prior to 90 days after the end of the deployment.

27.4(4) Servicing of utilization control equipment. Each electric cooperative or municipal electric utility is to service and maintain any equipment it uses on a customer's premises and correctly set and

keep in proper adjustment any utility-owned thermostats, clocks, relays, time switches or other devices that control the customer's service in accordance with the provisions in the utility's schedules.

27.4(5) *Customer complaints.* Complaints concerning the practices, facilities or service of the electric cooperative or municipal electric utility are to be investigated promptly and thoroughly. The electric cooperative or municipal electric utility is to keep such records of customer complaints as will enable it to review and analyze its procedures and actions.

a. Each electric cooperative and municipal electric utility are to develop a fully informative procedure for the resolution of customer complaints.

b. The utility is to take reasonable steps to ensure that customers unable to travel are not denied the right to be heard.

c. The final step in a complaint review procedure, if the utility and customer are not able to agree on a resolution of the complaint, is a filing for board resolution of the issues if the board determines it has jurisdiction.

27.4(6) *Limitation of service.* The electric cooperative or municipal electric utility may adopt a policy for service limitation at a customer's residence as a measure to be taken in lieu of disconnection of service to the customer. The service limiter policy is to contain the following:

a. No activation without the customer's agreement.

b. A requirement for default on all payment agreements.

c. Usage of a minimum of 3,600 watts. If the service limiter policy provides for different usage levels for different customers, specific nondiscriminatory criteria for determining the usage levels are set out. Electric-heating residential customers may have their service limited if otherwise eligible, but consumption limits are to be set at a level that allows customers to continue to heat their residences. For purposes of this rule, "electric heating" means heating by means of a fixed-installation electric appliance that serves as the primary source of heat and not, for example, one or more space heaters.

d. A provision that, if the minimum usage limit is exceeded such that the limiter function interrupts service, the service limiter function is to be capable of being reset manually by the customer, or the service limiter function will reset itself automatically within 15 minutes after the interruption. In addition, the service limiter function may also be capable of being reset remotely. If the option of resetting the meter remotely is available, the utility is to provide a 24-hour toll-free number for the customer to notify the electric cooperative or municipal electric utility that the limiter needs to be reset and the meter is to be reset immediately following notification by the customer. If the remote reset option is used, the meter is to be capable of being reset manually by the customer or the service limiter function will reset itself automatically within 15 minutes after the interruption.

e. There may be no disconnect, reconnect, or other charges associated with service limiter interruptions or restorations.

f. A provision that, upon installation of a service limiter or activation of a service limiter function on the meter, the electric cooperative or municipal electric utility is to provide the customer with information on the operation of the limiter, including how it can be reset, and information on what appliances or combination of appliances can generally be operated to stay within the limits imposed by the limiter.

g. A provision that the service limiter function of the meter is to be disabled no later than the next working day after the residential customer has paid the delinquent balance in full.

h. A service limiter customer that defaults on the payment agreement is subject to disconnection after a 24-hour notice.

199—27.5(476) Safety.

27.5(1) *Iowa electrical safety code compliance.* Each electric cooperative and municipal electric utility shall comply with 199—Chapter 25 under this subrule.

27.5(2) *Interconnection compliance.* Each electric cooperative and municipal electric utility shall comply with board rules for standards for interconnection, safety, and operating reliability under this subrule.

27.5(3) Protective measures. Each electric cooperative and municipal electric utility shall exercise reasonable care to reduce those hazards inherent in connection with its electric service and to which its employees, its customers, and the general public may be subjected and shall adopt and execute a safety program designed to protect the public and fitted to the size and type of its operations.

27.5(4) Accident investigation and prevention. Electric cooperatives and municipal electric utilities are to give reasonable assistance to the board in the investigation of the cause of accidents and in the determination of suitable means of preventing accidents.

27.5(5) Reportable accidents. Electric cooperatives and municipal electric utilities are to maintain a summary of all reportable accidents, as defined in board rules in 199—Chapter 25, arising from operations.

27.5(6) Grounding of secondary distribution system. Unless otherwise specified by the board, each electric cooperative and municipal electric utility is to comply with, and encourage customers to comply with, the applicable provisions of the acceptable standards for the grounding of secondary circuits and equipment.

a. Ground connections should be tested for resistance at the time of installation. Each electric cooperative and municipal electric utility are to keep a record of all ground resistance measurements.

b. Each electric cooperative and municipal electric utility is to establish a program of inspection so that all artificial grounds installed are inspected within reasonable periods of time.

199—27.6(476) Customer contribution fund.

27.6(1) Applicability and purpose. This rule applies to each electric cooperative and municipal electric utility, as defined in Iowa Code sections 476.1A and 476.1B. Pursuant to Iowa Code section 476.66, each electric cooperative or municipal electric utility is to maintain a program plan to assist the electric cooperative's or municipal electric utility's low-income customers with weatherization and to supplement assistance received under the federal low-income home energy assistance program for the payment of winter heating bills.

27.6(2) Notification. Notice of the customer contribution fund is to be given to all customers at least twice a year. Upon commencement of service and at least once a year, the notice is to be mailed or personally delivered to all customers, or provided by electronic means to those customers who have consented to receiving electronic notices. The other notice may be published in a local newspaper(s) of general circulation within the service territory of the electric cooperative or municipal electric utility. A utility serving fewer than 6,000 customers may publish its semiannual notices locally in a free newspaper, utility newsletter or shopper's guide instead of a newspaper. At a minimum, the notice is to include:

a. A description of the availability and the purpose of the fund.

b. A customer authorization form that includes methods of contribution.

27.6(3) Methods of contribution. Contribution methods may include monthly pledges, as well as one-time or periodic contributions. A pledge by a customer or other party is not a binding contract between the electric cooperative or municipal electric utility and the pledger. Delayed contributions are not subject to late payment charges. Each electric cooperative or municipal electric utility may allow persons or organizations to contribute matching funds.

27.6(4) Annual report. On or before September 30 of each year, each electric cooperative or municipal electric utility is to file with the board a report of all the customer contribution fund activity for the previous fiscal year from July 1 through June 30, on a form provided by the board that contains an accounting of the total revenues collected and all distributions of the fund.

199—27.7(476,478) Service reliability requirements for electric utilities.

27.7(1) Reliability plan. Each electric cooperative and municipal electric utility is to adopt and have approved by its board of directors or governing authority a reliability plan. The reliability plan is to be updated not less than annually. A copy of the annual report is to be filed with the board for informational purposes.

27.7(2) Engineering reliability standards. Electric cooperatives need to have reliability standards that comply with the engineering practice standards in board rules within this chapter.

199—27.8(476,478) Notification of outages.

27.8(1) Notification. The notification requirements in this rule are for the timely collection of electric outage information that may be useful to emergency management agencies in providing for the safety and welfare of individual Iowa citizens. Each electric cooperative and municipal electric utility shall notify the board when it is projected that an outage may result in a loss of service for more than six hours and the outage meets one of the following criteria:

a. Loss of service for more than six hours to substantially all of a municipality, including the surrounding area served by the same electric cooperative or municipal electric utility. An electric cooperative or municipal electric utility may use loss of service within the utility's service territory to 75 percent or more of customers within a municipality, including the surrounding area served by the utility, to meet this criterion;

b. A major event as defined in this chapter, except for notifications of emergency alerts from regional transmission organizations or independent system operators; or

c. Any other outage considered significant by the electric cooperative or municipal electric utility. This includes loss of service for more than six hours to significant public health and safety facilities known to the electric cooperative or municipal electric utility at the time of the notification.

27.8(2) Information about outages.

a. Notification shall be provided regarding outages that meet the requirements of subrule 27.8(1) by notifying the board duty officer by email at dutyofficer@iub.iowa.gov or, in appropriate circumstances, by telephone at 515-745-2332. Notification shall be made at the earliest possible time after it is determined the event may be reportable and should include the following information, as available:

- (1) The general nature or cause of the outage;
- (2) The area affected;
- (3) The approximate number of customers that have experienced a loss of electric service as a result of the outage;
- (4) The time when service is estimated to be restored; and
- (5) The name of the electric cooperative or municipal electric utility, the name and telephone number of the person making the report, and the name and telephone number of a contact person knowledgeable about the outage. The notice should be supplemented as more complete or accurate information is available.

b. The electric cooperative or municipal electric utility is to provide to the board updates of the estimated time when service will be restored to all customers able to receive service or of significantly changed circumstances, unless service is restored within one hour of the time initially estimated.

c. The electric cooperative or municipal electric utility is to notify the board once service is fully restored to all customers after an outage meeting the requirements of subrule 27.8(1).

199—27.9(476) Electric vehicle charging service. The requirements in rule 199—20.20(476) regarding electric vehicle charging stations apply to electric cooperatives and municipal electric utilities.

199—27.10(476) Exterior flood lighting.

27.10(1) Newly installed lighting. All newly installed exterior flood lighting owned by an electric cooperative or municipal electric utility are to be solid-state lighting or lighting with equivalent or better energy efficiency.

27.10(2) In-service lighting replacement schedule. In-service lighting is to be replaced with solid-state lighting or lighting with equivalent or better energy efficiency when worn out due to ballast, lamp, or fixture failure or for any other reason, such as vandalism or storm damage. Electric cooperatives and municipal electric utilities are to include in their annual report to be filed pursuant to 199—Chapter 23, as part of the IUB 24/7 filing requirements, a report stating the progress in converting to higher pressure sodium lighting or lighting with equivalent or higher energy efficiency.

27.10(3) Efficacy standards. Lighting other than solid-state has equivalent or better efficacy if one or more of the following can be established:

- a.* For fixtures, the mean lumens-per-watt lamp rating is greater than 100;
- b.* The new lighting uses no more energy per installation than comparable, suitably sized solid-state; or
- c.* The new lighting luminaries have a mean efficacy rating equal to or greater than 100 lumens per watt according to a Department of Energy (DOE) Lighting Facts label, testing under the DOE Commercially Available LED Product Evaluation and Reporting Program (CALiPER), Design Lights Consortium (DLC) or any other testing agency that follows Illuminating Engineering Society of North America LM-79-08 test procedures.

These rules are intended to implement Iowa Code sections 476.1A, 476.1B, 476.2, and 476.20.

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 199—Chapter 37
“Equipment Distribution Program”

Iowa Code section authorizing rulemaking: 476.2

State or federal law(s) implemented by the rulemaking: Iowa Code chapter 477C

Public Hearing

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

September 18, 2023
2 p.m.

Board Hearing Room
1375 East Court Avenue
Des Moines, Iowa

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis. Written comments in response to this Regulatory Analysis must be received by the Iowa Utilities Board no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

IT Support
Iowa Utilities Board
Phone: 515.725.7300
Email: ITSupport@iub.iowa.gov

Purpose and Summary

Iowa Code section 477C.4 provides that the Board “may plan, establish, administer, and promote a program to secure, finance, and distribute telecommunications devices” for individuals who are deaf or hard of hearing or have speech disorders and “may establish eligibility criteria for persons to receive [such devices], including but not limited to requiring certification that the recipient cannot use the telephone for communication without a telecommunications device for the deaf and hard of hearing.” 199—Chapter 37 creates the equipment distribution program structure, including the application and voucher process, and sets eligibility criteria.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

- Classes of persons that will bear the costs of the proposed rulemaking:

The equipment distribution program is funded through an assessment imposed by Iowa Code section 477C.7. Costs incurred by a person applying for equipment, if any, are borne by that person.

- Classes of persons that will benefit from the proposed rulemaking:

Qualified Iowans who are deaf or hard of hearing or have difficulty with speech and require a telecommunications device will benefit from the rules.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:

- Quantitative description of impact:

All quantitative costs incurred in administering and supporting the equipment distribution program are created by the enacting statute rather than the rules. See Iowa Code sections 477C.7(1) (providing that the Board “shall impose an assessment to fund the programs described in this chapter upon all wireless carriers and wire-line local exchange carriers providing telecommunications service in the state in the

amount of three cents per month for each telecommunications service phone number provided in this state”) and 477C.7(2) (providing that the moneys collected under the assessment “are appropriated solely to plan, establish, administer, and promote the relay service and equipment distribution programs”).

The proposed rules create an application process and set eligibility criteria, and individuals applying for telecommunications devices and equipment from the program will spend time completing the equipment distribution application and may incur expenses and costs to demonstrate program eligibility (e.g., acquiring a verification from an appropriate professional that the applicant has a need for the requested telecommunications equipment). However, program staff, including the agency’s third-party vendor that administers the program, are available to assist applicants in completing their applications, which may reduce the amount of time applicants spend filling out their applications.

The proposed rules provide a quantitative benefit to qualified Iowans by providing a voucher representing 95 percent of the average retail market price for a type of equipment, unless the retail market price is over \$1,000, in which case the voucher amount is 99 percent of the average retail market price. A number of vendors throughout the state have agreed to accept the program-issued vouchers and seek reimbursement for the amount of the voucher from the program. Therefore, an applicant who is issued a voucher may purchase required telecommunications equipment from one of these authorized vendors.

- Qualitative description of impact:

The predominant qualitative impact is that a qualified Iowan who is deaf, is hard of hearing, or has a speech disorder may obtain a telecommunications device or equipment under the program that would allow the individual to use the telephone for communication.

3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency:

As previously noted, Iowa Code section 477C.7, rather than Chapter 37, creates the mechanism to fund the equipment distribution program.

Pursuant to Iowa Code section 477C.7, moneys collected under the statutory assessment must be used to plan, establish, administer, and promote two separate programs: the dual party relay service (a program that Chapter 37 does not address) and the equipment distribution program. For fiscal year 2023, the budget for both programs was \$1.4 million, approximately \$550,000 of which is allocated to the equipment distribution program.

- Anticipated effect on state revenues:

The proposed rules are not anticipated to have a meaningful impact on state revenues.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

The costs of administering and funding the program are imposed by Iowa Code section 477C.7 rather than by the rules. To the extent the rules impose costs on applicants to demonstrate need, those costs are justified by the benefit of ensuring the applicant is eligible and that the issuance of the voucher is proper.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

In proposed rule 199—37.4(477C), the agency sought to lessen the burdens and costs on individuals completing the application by permitting a broad method for individuals to demonstrate the individual has a verified need for the equipment by an appropriate professional.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:

The agency considered self-verification of need.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking:

The agency concluded that verification of need by an appropriate professional was appropriate to avoid fraud and waste.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The agency does not believe the proposed rules will have an adverse impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 199—Chapter 37 and adopt the following new chapter in lieu thereof:

CHAPTER 37
EQUIPMENT DISTRIBUTION PROGRAM

199—37.1(477C) Purpose. This chapter describes the board's program established pursuant to Iowa Code section 477C.4 to secure, finance, and distribute telecommunications devices. The board's equipment distribution program serves eligible individuals who are deaf or hard of hearing or who have difficulty with speech.

The equipment distribution program will be limited by revenue considerations and annual budget amounts set by the board, with the advice of the dual party relay council established in Iowa Code section 477C.5. When the budgeted amounts for a period are committed or expended, no further vouchers for equipment will be issued until the next period when the board budgets additional amounts.

199—37.2(477C) Program structure. The equipment distribution program will be conducted by a program administrator chosen by the board. Distribution of equipment will be made through a voucher system utilizing private vendors for equipment purchases. Vouchers to pay part or, depending upon the price, all of the cost of equipment will be issued by the program administrator to eligible recipients. After purchase using a voucher, the recipient will be the permanent owner of the equipment and responsible for enforcement of any warranties and for any repairs.

199—37.3(477C) Equipment. The board will authorize and maintain a list of the types of equipment to be distributed through the program.

199—37.4(477C) Application process and eligibility. Applications will be processed in queue as determined by the program administrator. Additional vouchers will not be issued during a period if unpaid vouchers are outstanding for the remaining funds budgeted for the period. By signing the application form or otherwise averring to the accuracy of the information contained in the application, an applicant or the applicant's power of attorney certifies that the information provided therein is true.

37.4(1) Eligibility. No person is entitled to equipment at a particular time merely because the person meets the eligibility requirements. An eligible applicant will be limited to a voucher for one type of

equipment or equipment package. A person is eligible for equipment under the program if the following requirements are satisfied:

a. The applicant's equipment need is verified by an appropriate professional, which may include a licensed physician; certified teacher in the fields of hearing, speech, or visual impairment; licensed and certified sign language interpreter; speech pathologist; audiologist or hearing aid specialist; or appropriate state or federal agency representative.

b. The applicant has, or has applied for, access to the service that will allow the applicant to use the requested equipment. Access to Internet service may be provided through a public wireless network connection.

c. The applicant is an individual and an Iowa resident.

d. The applicant is at least five years of age or demonstrates an ability to use the equipment requested. No demonstration is necessary for those five years of age and older.

e. The applicant agrees to cooperate with studies to evaluate the effectiveness of the program.

f. The applicant's gross annual family income is equal to or less than \$76,000 for a family of two. Family sizes above or below two will increase or decrease that amount in \$10,000 increments per family member change.

37.4(2) Reapplication. Prior voucher recipients may reapply through the program to replace existing equipment or to obtain new equipment, as appropriate. Reapplication will be limited by a three-year waiting period. The reapplication period may be shortened by the board's equipment distribution program project manager in an individual case for good cause shown. At the time of reapplication for equipment, it is not necessary for the applicant's need for the equipment to be reverified by an appropriate professional. The program administrator will verify that the applicant reapplying for equipment previously qualified for and continues to qualify for a voucher.

199—37.5(477C) Voucher system.

37.5(1) Amount. The voucher will state a standard amount for a particular piece of equipment.

a. The standard amount is determined and updated periodically by the program administrator.

b. The standard amount is 95 percent of the average retail market price for the piece of equipment, unless the retail market price is more than \$1,000, in which case the standard amount is 99 percent of the average retail market price. The standard amount may be increased to 100 percent if a person demonstrates to the program administrator that the person is unable to pay the matching amount.

37.5(2) Voucher use. The recipient of a voucher may purchase equipment from any vendor that will accept the voucher and may apply the voucher amount toward purchase of the brand and model of indicated equipment as the recipient chooses. The program will not reimburse for equipment purchased by an applicant prior to the issuance of a voucher.

37.5(3) Term. The voucher provides for a 40-day period for the voucher recipient to present the voucher to the vendor. The vendor, upon presentation of the voucher, has 60 days to complete the sale and delivery of the equipment and to return the voucher to the program administrator. The program administrator has 20 days to process and return the voucher to the board for payment. The program administrator, for good cause shown, may extend either the 40- or 60-day deadline, provided the voucher is returned to the board for payment within 120 days from the issuance of the voucher. The program administrator may authorize reimbursement for a voucher issued more than 120 days before the voucher is sent to the board for payment if the program administrator determines good cause exists for extending the 120-day deadline and provides supporting documentation to the board.

37.5(4) Payment. The voucher is not a negotiable instrument. Upon presentation of documentation by the vendor as determined by the board, including but not limited to an invoice showing an amount due no greater than the voucher amount, the vendor will be issued a state warrant for the amount due.

199—37.6(477C) Complaints. All complaints concerning the equipment distribution program will be resolved pursuant to the following:

37.6(1) The program administrator will make determinations concerning matters such as eligibility, type of equipment for particular applicants, or reimbursement of vendors.

37.6(2) The program administrator, after requiring interested persons to state verbally or in writing any complaint or dispute arising under the equipment distribution program, will attempt to settle the matter informally within 45 days.

37.6(3) Should the informal dispute resolution process fail, the complainant may submit the complaint to the board for processing by the board's equipment distribution program project manager as provided in 199—Chapter 6. The project manager will provide a copy of the complaint to the program administrator and the consumer advocate. The project manager will issue a proposed resolution that describes the facts involved in the dispute, clearly states the proposed resolution, and gives notice that any interested person dissatisfied with the proposed resolution has 14 days after the proposed resolution is issued to file a written request for formal complaint proceedings before the board.

37.6(4) If no timely request for formal complaint proceedings is filed, the proposed resolution shall be deemed binding on all interested persons served with the proposed resolution.

37.6(5) The board will process requests for formal complaint proceedings as provided in rule 199—6.5(476).

These rules are intended to implement Iowa Code section 477C.4.

ARC 7065C**CHILD ADVOCACY BOARD[489]****Notice of Intended Action****Proposing rulemaking related to agency reorganization
and providing an opportunity for public comment**

The Child Advocacy Board hereby proposes to amend Chapter 1, “Purpose and Function,” Chapter 2, “Rules and Operation for the State Board,” Chapter 3, “Local Foster Care Review Boards,” and Chapter 4, “Court Appointed Special Advocate Program,” and rescind Chapter 5, “Public Records and Fair Information Practices,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 237.18.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2023 Iowa Acts, Senate File 514.

Purpose and Summary

The purpose of this proposed rulemaking is to update language in the Board’s rules to reflect the movement of the Child Advocacy Board to the Department of Health and Human Services pursuant to the state government reorganization legislation passed during the 2023 Legislative Session of the Iowa General Assembly.

This rulemaking updates references to the administrator, who will be an employee of the Department of Health and Human Services as of July 1, 2023; updates references to the “Department of Human Services” to be the “Department of Health and Human Services” and rescinds the Public Records and Fair Information Practices chapter from this agency number to remove duplicative uniform rules. The specific rules describing “personally identifiable information” in rule 489—5.14(22) was previously moved to new rule 441—9.17(22).

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Health and Human Services for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on September 12, 2023. Comments should be directed to:

Sarah Reisetter
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.242.6392
Email: compliancerules@idph.iowa.gov

CHILD ADVOCACY BOARD[489](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 rulemaking 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 rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking action is proposed:

ITEM 1. Amend subrule 1.1(1) as follows:

1.1(1) Location. The child advocacy board is located in the Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083; telephone (866)448-4608. Office hours are 8 a.m. to 4:30 p.m., Monday through Friday, except on state holidays. The child advocacy board is created within the department of ~~inspections and appeals~~ health and human services.

ITEM 2. Amend subrule **1.1(2)**, definitions of “Department” and “Person or court responsible for the child,” as follows:

“*Department*” means the department of health and human services.

“*Person or court responsible for the child*” means the department, including but not limited to the department of health and human services, agency, or individual who is the guardian of a child by court order issued by the juvenile or district court and has the responsibility of the care of the child, or the court having jurisdiction over the child.

ITEM 3. Amend subrule 2.1(1) as follows:

2.1(1) Membership and terms. The child advocacy board is created within the department of ~~inspections and appeals~~ health and human services. The state board consists of nine members appointed by the governor, subject to confirmation by the senate and directly responsible to the governor. One member shall be an active court appointed special advocate volunteer, one member shall be an active member of a local citizen foster care review board, and one member shall be a judicial branch employee or judicial officer appointed from nominees submitted by the judicial branch. The appointment is for a term of four years that begins and ends as provided in Iowa Code section 69.19. Vacancies on the state board shall be filled in the same manner as original appointments are made. An employee of the department of health and human services ~~or of the department of inspections and appeals~~, an employee of a child-placing agency, an employee of an agency with which the department of health and human services contracts for services for children under foster care, a foster parent providing foster care, or an employee of the district court is not eligible to serve on the state board. However, the judicial branch employee or judicial officer appointed from nominees submitted by the judicial branch in accordance with Iowa Code section 237.16(1) shall be eligible to serve on the state board.

ITEM 4. Amend subrule 2.2(1) as follows:

2.2(1) ~~The state board~~ director appoints an administrator for the child advocacy board. The administrator is responsible for the ongoing administration of the state and local boards’ activities and of the court appointed special advocate program.

ITEM 5. Amend subrule 3.2(2) as follows:

3.2(2) A person employed by the department of health and human services or the judicial department, an employee of an agency with which the department of health and human services contracts for services for children under foster care, a foster parent providing foster care, or a child-placing agency shall not serve on a local board.

CHILD ADVOCACY BOARD[489](cont'd)

ITEM 6. Amend subrule **4.1(1)**, definition of “Administrator,” as follows:
 “*Administrator*” means the person selected by the ~~child advocacy board~~ director to lead, direct and manage the staff and programs established by the board.

ITEM 7. Amend paragraph **4.2(3)“g”** as follows:
 g. Not be a person employed by the state board, the department of health and human services, the district court, or an agency with which the department of health and human services contracts for services for children.

ITEM 8. Rescind and reserve **489—Chapter 5**.

ARC 7066C

ECONOMIC DEVELOPMENT AUTHORITY[261]

Notice of Intended Action

Proposing rulemaking related to the butchery innovation and revitalization program and providing an opportunity for public comment

The Economic Development Authority (IEDA) hereby proposes to amend Chapter 51, “Butchery Innovation and Revitalization Program,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 15.106A and 15E.370.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 15E.370.

Purpose and Summary

Pursuant to Executive Order 10, IEDA has been directed to propose this Notice of Intended Action. IEDA administers the Butchery Innovation and Revitalization Program pursuant to Iowa Code section 15E.370. The program was created in 2021. The program received an appropriation of \$1 million for fiscal year 2024.

IEDA proposes the following amendments:

- Remove portions of the rules that repeat statutory language, including statutory language that was amended by 2023 Iowa Acts, House File 185. The legislation changes an eligibility requirement to allow businesses with up to 75 employees to receive grants through the program. Previously, businesses with up to 50 employees were eligible.
- Clarify which project costs are eligible and ineligible for reimbursement with grant funds awarded through the program.
- Make grant recipients ineligible to receive additional grants from the program during the three fiscal years following approval of the initial grant and require that recipients fully satisfy any prior agreements before applying for additional grants.
- Replace language that requires the IEDA Board to act on all applications with language that would require the Board to act only to approve funding, consistent with other IEDA programs that require Board approval.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition IEDA for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by IEDA no later than 4:30 p.m. on September 12, 2023. Comments should be directed to:

Lisa Connell
Iowa Economic Development Authority
1963 Bell Avenue, Suite 200
Des Moines, Iowa 50315
Phone: 515.348.6163
Email: lisa.connell@iowaeda.com

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rulemaking 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 rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking action is proposed:

ITEM 1. Rescind the definitions of “Federally inspected small-scale meat processing business,” “Licensed custom locker,” “Mobile slaughter unit” and “State-inspected small-scale meat processing business” in rule **261—51.2(15E)**.

ITEM 2. Rescind rule 261—51.3(15E) and adopt the following **new** rule in lieu thereof:

261—51.3(15E) Eligibility.

51.3(1) Eligible businesses. To be eligible for a grant under the program, an applicant shall meet all of the eligibility requirements in Iowa Code section 15E.370(4) as amended by 2023 Iowa Acts, House File 185, in addition to all of the following requirements:

- a. The business must be incorporated or organized in Iowa or authorized to do business in Iowa.
- b. The business must be an establishment that holds a current license from the department in accordance with the requirements of Iowa Code chapter 189A or is actively working with the department to obtain a license. Factors the authority may consider in determining whether a business is actively working with the department to obtain a license include, but are not limited to, the number and frequency of contacts the business has had with the department, whether the business has submitted an application for inspection to the department or FSIS, and whether the department or FSIS has conducted a site visit at the business.
- c. The applicant must have an assessment of the applicant’s proposed investment completed by CIRAS prior to submission of an application.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

51.3(2) *Regulatory enforcement actions.* For the purposes of determining whether a business is ineligible for the program because the business has been subject to any regulatory enforcement action in the last five years pursuant to Iowa Code section 15E.370(4) “b,” regulatory enforcement actions include, but are not limited to, an administrative order, consent order or similar formal order issued by an applicable enforcement agency or an involuntary withdrawal of a state grant of inspection or federal grant of inspection.

51.3(3) *Eligible projects.* The applicant must propose an eligible project as described in Iowa Code section 15E.370(3).

a. For purposes of this subrule, a state-inspected small-scale meat processing business is an establishment that has been issued a state grant of inspection and meets the eligible business criteria in subrule 51.3(1).

b. For purposes of this subrule, a federally inspected small-scale meat processing business is an establishment that has been issued a federal grant of inspection and meets eligible business criteria in subrule 51.3(1).

c. For purposes of this subrule, a licensed custom locker is an establishment that slaughters or prepares livestock exclusively for use by the owners of the livestock, members of their household, and their nonpaying guests and employees, that is periodically inspected by the department, and that meets the eligible business criteria in subrule 51.3(1).

d. For purposes of this subrule, a mobile slaughter unit is a self-contained slaughter establishment that can travel from site to site; that operates in compliance with applicable laws, regulations, and the most current mobile slaughter unit compliance guide issued by FSIS; and that meets the eligible business criteria in subrule 51.3(1).

51.3(4) *Eligible and ineligible project costs.*

a. Eligible costs include, but are not limited to, land acquisition, site preparation, building acquisition, building construction, building remodeling, lease payments, machinery and equipment, and computer hardware or software associated with new machinery and equipment.

b. Ineligible costs include, but are not limited to, ongoing training costs, operational costs, and costs incurred for facilities located outside the state of Iowa. Training costs specific to new investment in machinery and equipment may be considered eligible in the discretion of the authority.

51.3(5) *Matching support required.* The applicant shall demonstrate the ability to provide matching financial support for the project on a one-to-one basis in the form of cash. The matching financial support must be obtained from private sources.

51.3(6) *Receipt of multiple grants.* An applicant that has previously received a grant from the program shall not be eligible to apply for additional grants from the program during the three state fiscal years following approval of the previous grant. For example, an applicant that was approved for a grant on February 16, 2023 (fiscal year 2023), would be eligible to apply for an additional grant on or after July 1, 2026 (fiscal year 2027). An applicant that has previously received a grant from the program shall not be eligible to apply for additional grants from the program until any prior program agreements have been satisfied.

ITEM 3. Amend subrule 51.4(4) as follows:

51.4(4) A scoring committee will consider, evaluate, and recommend applications for financial assistance under the program. The committee will review applications for financial assistance and score the applications according to the criteria described in subrule 51.5(2). ~~Applications deemed to meet the minimum scoring criteria will be submitted to the board for a final funding decision.~~

ITEM 4. Rescind subrule 51.4(5) and adopt the following **new** subrule in lieu thereof:

51.4(5) Applications that are recommended for funding by the committee will be forwarded to the board for final approval.

ITEM 5. Amend paragraph **51.5(2)“e”** as follows:

e. The financial need of the applicant: 10 points. Applicants that received a business improvement grant from the department for expenses incurred between March 1, 2020, and December 1, 2020, or a previous ~~grant~~ financial assistance from the ~~program~~ authority will receive fewer points.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

ITEM 6. Amend **261—Chapter 51**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section 15E.370 as amended by 2023 Iowa Acts, House File 185.

ARC 7063C

HUMAN RIGHTS DEPARTMENT[421]

Notice of Intended Action

Proposing rulemaking related to agency reorganization and providing an opportunity for public comment

The Department of Health and Human Services (Department) hereby proposes to amend Chapter 1, “Organization and Operations,” and rescind Chapter 2, “Public Records and Fair Information Practices,” Chapter 3, “Petitions for Rule Making,” Chapter 4, “Agency Procedure for Rule Making,” Chapter 5, “Declaratory Orders,” Chapter 6, “Contested Cases,” and Chapter 7, “Waiver Rules,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 217.6 and 2023 Iowa Acts, Senate File 514.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2023 Iowa Acts, Senate File 514.

Purpose and Summary

The purpose of this proposed rulemaking is to update language in legacy agency chapters to reflect the agency changes made in 2023 Iowa Acts, Senate File 514, as part of the state government reorganization. This rulemaking updates language in the Human Rights Department chapters to reflect the changes in the legislation and rescinds a number of rules and chapters that are duplicative of uniform rules of agency procedure previously adopted by the legacy agencies. The Iowa Department of Health and Human Services’ uniform rules on agency procedure will be contained under agency ID number [441]. This rulemaking rescinds and reserves chapters to reduce confusion among the public and regulated community regarding uniform rules for the Iowa Department of Health and Human Services.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on September 12, 2023. Comments should be directed to:

HUMAN RIGHTS DEPARTMENT[421](cont'd)

Sarah Reisetter
 Health and Human Services
 Lucas State Office Building
 321 East 12th Street
 Des Moines, Iowa 50319
 Email: compliancerules@idph.iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rulemaking 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 rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking action is proposed:

- ITEM 1. Rescind and reserve rule **421—1.2(17A,216A)**.
- ITEM 2. Rescind and reserve rule **421—1.3(17A,216A)**.
- ITEM 3. Amend rule 421—1.4(17A,216A) as follows:

421—1.4(17A,216A) Mission. ~~The mission of the department~~ department’s mission related to human rights is to ensure basic rights, freedoms, and opportunities for all by empowering underrepresented Iowans and eliminating economic, social, and cultural barriers. The department helps individuals attain economic independence by ensuring access to government services and advancing educational achievement and entrepreneurial success consistent with their aspirations.

- ITEM 4. Amend rule 421—1.5(17A,216A) as follows:

421—1.5(17A,216A) Organization Contact information.

~~1.5(1) Contact information.~~ Requests for assistance, information, inquiries, submissions, petitions, and other communications related to human rights may be directed to the department as follows: The office is located at 321 E. 12th Street, Des Moines, Iowa 50319. The main telephone number is (515)242-5655. The fax number is (515)242-6119. Regular office hours are Monday through Friday, 8 a.m.to 4:30 p.m., excluding legal holidays. The department’s website is humanrights.iowa.gov hhs.iowa.gov.

~~1.5(2) Director.~~ The duties and responsibilities of the director are described in Iowa Code section 216A.2. The director is appointed by the governor, subject to confirmation by the senate. The director serves at the pleasure of the governor. The director is the chief administrative officer of the department and, in that capacity, administers the programs and services of the department in compliance with applicable federal and state laws and regulations. The duties of the director include preparing a budget, managing the internal operations of the department, appointing the deputy director and administrators of the divisions, and employing personnel. The director serves as an ex officio member of all of the commissions or councils within the department, as well as an ex officio, nonvoting member of the human rights board.

~~1.5(3) Central administration.~~ The central administration office is responsible for the overall planning, policy, management, communications, finances, and operations of the department.

- ~~1.5(4) Divisions.~~ The department is composed of the following divisions and offices:

HUMAN RIGHTS DEPARTMENT[421](cont'd)

~~a.—Division of community action agencies. A description of the division is contained in 421—Chapter 20.~~

~~b.—Division of criminal and juvenile justice planning. A description of the division is contained in 421—Chapter 30.~~

~~c.—Division of community advocacy and services. The division of community advocacy and services contains the following offices: the office of Latino affairs, the office on the status of women, the office of persons with disabilities, the office of deaf services, the office on the status of African Americans, the office of Asian and Pacific Islander affairs, and the office of Native American affairs. A description of the division is contained in 421—Chapter 40.~~

ITEM 5. Amend rule 421—1.6(216A) as follows:

421—1.6(216A) Human rights board. The authority, and duties and composition of the human rights board are specified in Iowa Code section 216A.3. ~~The department shall provide staff support to the board.~~

~~1.6(1) The board shall consist of 16 members, including 11 voting members and 5 nonvoting members and determined as follows:~~

~~a.—The voting members shall consist of nine voting members selected by each of the permanent commissions within the department, and two voting members appointed by the governor. For purposes of this subrule, “permanent commissions” means the commission of Latino affairs, commission on the status of women, commission of persons with disabilities, commission on community action agencies, commission of deaf services, justice advisory board, commission on the status of African Americans, commission of Asian and Pacific Islander affairs, and commission of Native American affairs. The term for voting members is four years. The board shall select a chairperson from the voting members of the board.~~

~~b.—The nonvoting members shall consist of the department director; two state representatives, one appointed by the speaker of the house of representatives and one by the minority leader of the house of representatives; and two state senators, one appointed by the majority leader of the senate and one by the minority leader of the senate. The regular term of an appointment made by a member of the general assembly shall be two years pursuant to Iowa Code section 69.16B.~~

~~1.6(2) A majority of the voting members of the board shall constitute a quorum, and the affirmative vote of two-thirds of the voting members present is necessary for any substantive action taken by the board.~~

~~1.6(3) The board shall meet not less than four times a year. Meetings shall comply with the open meetings law, Iowa Code chapter 21. Agendas and approved minutes will be posted on the department’s website.~~

~~1.6(4) The board shall have the following duties:~~

~~a.—Develop and monitor implementation of a comprehensive strategic plan to remove barriers for underrepresented populations and, in doing so, to increase Iowa’s productivity and inclusivity, including performance measures and benchmarks.~~

~~b.—Approve, disapprove, amend, or modify the budget recommended by the director for the operation of the department, subject to the budget requirements pursuant to Iowa Code chapter 8.~~

~~c.—Adopt administrative rules pursuant to Iowa Code chapter 17A, upon the recommendation of the director, for the operation of the department.~~

~~d.—By November 1 of each year, approve the department report to the general assembly and the governor that covers activities during the preceding fiscal year.~~

HUMAN RIGHTS DEPARTMENT[421](cont'd)

- ITEM 6. Rescind and reserve **421—Chapter 2.**
- ITEM 7. Rescind and reserve **421—Chapter 3.**
- ITEM 8. Rescind and reserve **421—Chapter 4.**
- ITEM 9. Rescind and reserve **421—Chapter 5.**
- ITEM 10. Rescind and reserve **421—Chapter 6.**
- ITEM 11. Rescind and reserve **421—Chapter 7.**

ARC 7062C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rulemaking related to agency reorganization and providing an opportunity for public comment

The Health and Human Services Department hereby proposes to amend Chapter 1, “Departmental Organization and Procedures,” and Chapter 9, “Public Records and Fair Information Practices,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 217.6 and 2023 Iowa Acts, Senate File 514.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2023 Iowa Acts, Senate File 514.

Purpose and Summary

The purpose of this proposed rulemaking is to update language in legacy agency chapters to reflect the agency changes made in 2023 Iowa Acts, Senate File 514, as part of the state government reorganization. This rulemaking updates language in subrule 9.12(1) to reflect changes in the legislation and rescinds rule 441—1.8(17A,217), which is duplicative of uniform rules of agency procedure previously adopted by the legacy agencies. The Iowa Department of Health and Human Services’ uniform rules on agency procedure will be contained under agency ID number [441]. Notice **ARCs 7063C** and **7064C**, IAB 8/23/23, also propose to rescind and reserve chapters to reduce confusion among the public and regulated community regarding uniform rules for the Iowa Department of Health and Human Services.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on September 12, 2023. Comments should be directed to:

HUMAN SERVICES DEPARTMENT[441](cont'd)

Sarah Reissetter
 Lucas State Office Building, 6th Floor
 321 East 12th Street
 Des Moines, Iowa 50319
 Email: compliancecerules@idph.iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rulemaking 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 rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking action is proposed:

ITEM 1. Rescind and reserve rule **441—1.8(17A,217)**.

ITEM 2. Amend subrule 9.12(1), introductory paragraph, as follows:

9.12(1) Nature and extent. The personally identifiable information collected by the department in its administration of human services programs varies by the type of record. The nature and extent of personally identifiable information is described below:

ARC 7064C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

**Proposing rulemaking related to agency reorganization
 and providing an opportunity for public comment**

The Department of Health and Human Services (Department) hereby proposes to rescind Chapter 170, “Organization of the Department,” Chapter 171, “Petitions for Rule Making,” Chapter 172, “Declaratory Orders,” Chapter 173, “Contested Cases,” Chapter 174, “Agency Procedure for Rule Making,” and Chapter 175, “Fair Information Practices and Public Records,” and amend Chapter 176, “Criteria for Awards or Grants,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 217.6 and 2023 Iowa Acts, Senate File 514.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2023 Iowa Acts, Senate File 514.

Purpose and Summary

The purpose of this proposed rulemaking is to update language in legacy agency chapters to reflect the agency changes made in 2023 Iowa Acts, Senate File 514, as part of the state government reorganization. This rulemaking rescinds a number of chapters that are duplicative of uniform rules of agency procedure previously adopted by the legacy agencies. The Iowa Department of Health and

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Human Services' uniform rules on agency procedure will be contained under agency ID number [441]. This rulemaking rescinds and reserves chapters to reduce confusion among the public and regulated community regarding uniform rules for the Iowa Department of Health and Human Services.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on September 12, 2023. Comments should be directed to:

Sarah Reisetter
Lucas State Office Building, 6th Floor
321 East 12th Street
Des Moines, Iowa 50319
Email: compliancerules@idph.iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rulemaking 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 rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking action is proposed:

PUBLIC HEALTH DEPARTMENT[641](cont'd)

- ITEM 1. Rescind and reserve **641—Chapter 170.**
- ITEM 2. Rescind and reserve **641—Chapter 171.**
- ITEM 3. Rescind and reserve **641—Chapter 172.**
- ITEM 4. Rescind and reserve **641—Chapter 173.**
- ITEM 5. Rescind and reserve **641—Chapter 174.**
- ITEM 6. Rescind and reserve **641—Chapter 175.**
- ITEM 7. Rescind and reserve rule **641—176.1(135,17A).**
- ITEM 8. Rescind and reserve rule **641—176.2(135,17A).**
- ITEM 9. Rescind and reserve rule **641—176.3(135,17A).**
- ITEM 10. Rescind and reserve rule **641—176.4(135,17A).**
- ITEM 11. Rescind and reserve rule **641—176.5(135,17A).**
- ITEM 12. Rescind and reserve rule **641—176.8(135,17A).**

ADVISORY NOTICE

CORRECTION TO PUBLIC HEARING INFORMATION FOR ARC 7054C

ARC 7054C, a Notice of Intended Action to adopt a new Chapter 26 of the Iowa Department of Revenue’s administrative rules relating to setoff of debts owed to public agencies, was published in the Iowa Administrative Bulletin on August 9, 2023. The Iowa Department of Revenue provides this informational notice to correct erroneously published information on the telephone number and access code that can be used for participating in the August 29, 2023, public hearing on **ARC 7054C**. Corrected information on the public hearing is provided in full below. For questions, please contact Nick Behlke by email at nick.behlke@iowa.gov or by telephone at 515.336.9025.

August 29, 2023
9 to 10 a.m.

Rooms 429 and 430
Hoover State Office Building
Des Moines, Iowa
Google Meet: meet.google.com/ajx-eicx-hum
Via telephone: 1.502.547.1252
When prompted: 231 953 134#
Mute telephone or microphone upon entering the meeting

TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA

Public Notice

NOTICE OF OFFICIAL CONTRACT LIMITATION AMOUNT ADJUSTMENT FOR THE PERIOD COMMENCING SEPTEMBER 1, 2023, AND ENDING AUGUST 31, 2024

In accordance with Iowa Code section 8D.11, subsection 1, paragraph “c,” the Iowa Telecommunications and Technology Commission’s (Iowa Communications Network) Executive Director hereby publishes the official adjusted contract limitation amount for the period commencing on September 1, 2023, and ending on August 31, 2024, of \$2,933,325.70.

The adjusted contract limitation amount becomes effective on September 1, 2023. The amount was determined by applying the formula specified in the statute. According to the federal Department of

TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751](cont'd)

Labor, Bureau of Labor Statistics, the consumer price index for all urban consumers increased 3 percent from July 2022 to June 2023.

Pursuant to Iowa Code section 8D.11, subsection 1, paragraph “c,” this notice is exempt from the rulemaking process in Iowa Code chapter 17A.

Questions with respect to this notice should be directed to:

ICN Executive Director
Iowa Telecommunications and Technology Commission
400 E. 14th Street
Des Moines, Iowa 50319
Telephone: 515.725.4692

TREASURER OF STATE

Notice—Public Funds Interest Rates

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Roby Smith, Superintendent of Credit Unions Katie Averill, Superintendent of Banking Jeff Plagge, and Auditor of State Rob Sand has established today the following rates of interest for public obligations and special assessments. The usury rate for August is 5.75%.

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

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

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

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

New official state interest rates, effective August 9, 2023, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

7-31 days	Minimum .05%
32-89 days	Minimum .05%
90-179 days	Minimum 1.65%
180-364 days	Minimum 1.45%
One year to 397 days	Minimum 1.55%
More than 397 days	Minimum 1.25%

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

TREASURER OF STATE[781](cont'd)

Inquiries may be sent to Roby Smith, Treasurer of State, State Capitol, Des Moines, Iowa 50319.

USURY

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

September 1, 2022 — September 30, 2022	5.00%
October 1, 2022 — October 31, 2022	5.00%
November 1, 2022 — November 30, 2022	5.50%
December 1, 2022 — December 31, 2022	6.00%
January 1, 2023 — January 31, 2023	6.00%
February 1, 2023 — February 28, 2023	5.50%
March 1, 2023 — March 31, 2023	5.50%
April 1, 2023 — April 30, 2023	5.75%
May 1, 2023 — May 31, 2023	5.75%
June 1, 2023 — June 30, 2023	5.50%
July 1, 2023 — July 31, 2023	5.50%
August 1, 2023 — August 31, 2023	5.75%
September 1, 2023 — September 30, 2023	6.00%

ARC 7061C

EDUCATION DEPARTMENT[281]

Adopted and Filed

Rulemaking related to education savings accounts

The State Board of Education hereby adopts new Chapter 20, “Students First Act—Education Savings Accounts,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 256.7 and 2023 Iowa Acts, House File 68.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2023 Iowa Acts, House File 68.

Purpose and Summary

This rulemaking adopts new Chapter 20 containing the administrative rules for the education savings account (ESA) provisions of the Students First Act. New rule 281—20.1(257) provides definitions for the program. New rule 281—20.2(257) sets eligibility requirements for participation. New rule 281—20.3(257) sets parameters for the application process. New rule 281—20.4(257) provides for administration and accountability for the program.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on May 31, 2023, as **ARC 7023C**. This rulemaking was also adopted and filed emergency and published in the Iowa Administrative Bulletin as **ARC 7024C** on the same date.

A public hearing was held on June 20, 2023, at 9 a.m. in the State Board Room, Second Floor, Grimes State Office Building, Des Moines, Iowa, with a videoconference option.

Two people were present, and one presented public comment at the hearing. Three organizations submitted written comments: the Iowa State Education Association, the Urban Education Network, and the Rural School Advocates of Iowa. The written comments were largely supportive of the Department’s implementation of the statute as written. The Department also considered the public discussion at the June 13, 2023, meeting of the Administrative Rules Review Committee, as well as technical drafting assistance from the Administrative Code Editor.

The Department did not make the following changes requested by commenters. One written comment and the comment at the public hearing stated that the income restrictions for the first two school years are not constitutional. The Department is unable to address this matter through rulemaking, since statutes are presumed constitutional.

The Department will not add suggested language that restates statutory requirements. For that reason, the Department did not add language spelling out which assessments students participating in the ESA program are required to take.

The Department did not add suggested language that can be adequately addressed through assurances in the platform maintained by the third-party vendor. This includes requests for rule language on notifications when a student withdraws from a nonpublic school and specific reporting requirements for enrollment data to public school districts.

The Department considered a request to clarify the relationship between online schools and online providers. No rulemaking is necessary; however, the Department restates its position under the emergency rulemaking that online schools and online providers of educational services are not synonymous. Furthermore, other rules provide that no accredited nonpublic school may be fully online

EDUCATION DEPARTMENT[281](cont'd)

without an on-ground presence (e.g. subrule 15.12(6)). It is not necessary to restate that requirement in this chapter.

One commenter asked for clarification on what happens if a student who is eligible for an ESA does not enroll in a nonpublic school. No rulemaking is necessary to provide that clarification. ESA funds are in the State's possession until the point when the parent/guardian approves an invoice from the nonpublic school for payment of tuition and fees.

Changes from the Adopted and Filed Emergency have been made. First, based on experiences of reviewing applications under the emergency rules, the Department added language in subrule 20.1(1) to allow the Director to consider income decreases after the filing of the previous year's tax return. Second, based on written comment, the Department added language in paragraph 20.1(6)"d" to clarify that an "accredited provider" must hold a credential relevant to the service being provided. Finally, based on technical drafting assistance from the Administrative Code Editor, the Department added language to paragraph 20.1(6)"e" to clarify what expenses are ineligible.

Adoption of Rulemaking

This rulemaking was adopted by the State Board on August 3, 2023.

Fiscal Impact

This rulemaking has a fiscal impact to the State of Iowa, as described in the Fiscal Note for 2023 Iowa Acts, House File 68, available at www.legis.iowa.gov/docs/publications/FN/1367577.pdf. Note that the Fiscal Note estimate was completed before the final enactment of supplemental state aid for the 2023-2024 school year. Additionally, fiscal impacts remain contingent on the number of eligible individuals who use an ESA to enroll in an accredited nonpublic school.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the State Board for a waiver of the discretionary provisions, if any, pursuant to 281—Chapter 4.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking will become effective on September 27, 2023, at which time the Adopted and Filed Emergency rulemaking is hereby rescinded.

The following rulemaking action is adopted:

ITEM 1. Adopt the following **new** 281—Chapter 20:

CHAPTER 20 STUDENTS FIRST ACT—EDUCATION SAVINGS ACCOUNTS

281—20.1(257) Definitions.

EDUCATION DEPARTMENT[281](cont'd)

20.1(1) “Annual income” means the same as “net income” as defined in Iowa Code section 422.7 in effect for the year preceding an application. In calculating annual income, the department shall use information from the last year’s state tax form and need not include income of individuals who have no legal obligation to provide support to the student unless said individual is married to the parent or guardian who is responsible for financially supporting the student. If “annual income” cannot be clearly determined through review of the submitted tax return, the department director has authority to request additional information and determine eligibility. The department director may consider income reductions after the filing of the preceding year’s tax return. This subrule applies only for school years beginning July 1, 2023, and July 1, 2024; it will cease to be applicable by operation of law on July 1, 2025.

20.1(2) “Department” means the department of education.

20.1(3) “Full-time” means enrollment at a nonpublic school with a minimum school calendar that meets the requirement of Iowa Code section 279.10 for at least 75 percent of the school’s definition of “full-time.”

20.1(4) “Household” means the number of people who reside together and who are related by birth, marriage, adoption, legal guardianship, or placement in the home through a state agency. “Household” includes parents, student applicants, and other children who share at least one parent by birth, by adoption, by a parent’s current marriage, or by placement in the home through a state agency. A parent on military duty is considered to be residing in the household. If “household” cannot be clearly determined through review of the submitted tax return, the department director has authority to request additional information and determine eligibility. This subrule applies only for school years beginning July 1, 2023, and July 1, 2024; it will cease to be applicable by operation of law on July 1, 2025.

20.1(5) “Nonpublic school” means the same as defined in Iowa Code section 285.16.

20.1(6) “Qualified educational expenses” means the same as defined in Iowa Code section 257.11B(1) “b” as enacted by 2023 Iowa Acts, House File 68, section 7.

a. For purposes of this subrule, an approvable provider of “educational therapies” is qualified by recognized training and education to provide those educational therapies. To prevent waste, fraud, and abuse, “educational therapies” does not include therapies provided by the student’s family. For purposes of this subrule, “family” includes parents, step-parents, guardians, siblings, half siblings, step-siblings, grandparents, step-grandparents, aunts, uncles, or first cousins.

b. For purposes of this subrule, approvable “online education programs” means online education programs provided by online education providers approved by the department under 281—Chapter 15.

c. For purposes of this subrule, an approvable provider of “vocational and life skills education” is any entity approved by the department or any other unit of state government to provide the vocational and life skills education sought.

d. For purposes of this subrule, an approvable “accredited provider” is any individual or organization holding a credential issued by the Iowa board of educational examiners or any other credential issued by the state of Iowa to provide the service at issue. For purposes of this paragraph, paraprofessionals or assistants are sufficiently trained if they hold a credential issued under Iowa Code section 272.12 or if they have received training and education deemed sufficient by their supervising professional.

e. For purposes of this subrule, expenses listed in Iowa Code section 257.11B(1) “b” as enacted by 2023 Iowa Acts, House File 68, section 7, as “not included” in the definition of “qualified educational expenses,” are not eligible for payment.

20.1(7) “Resident” means the same as defined in Iowa Code section 282.1(2).

20.1(8) “Student” is synonymous with the term “pupil” as that term is used in Iowa Code section 257.11B as enacted by 2023 Iowa Acts, House File 68, section 7.

281—20.2(257) Eligible students.

20.2(1) Resident students are eligible as described in Iowa Code section 257.11B(2) as enacted by 2023 Iowa Acts, House File 68, section 7, with annual income determined pursuant to subrule 20.1(1).

EDUCATION DEPARTMENT[281](cont'd)

20.2(2) Resident students are deemed to attend a nonpublic school for that school budget year under Iowa Code section 257.11B(2) as enacted by 2023 Iowa Acts, House File 68, section 7, if the student attends a nonpublic school on a full-time basis.

20.2(3) Resident students are deemed enrolled in a nonpublic school for the school year immediately preceding the school year for which the education savings account (ESA) payment is requested under Iowa Code section 257.11B(2) as enacted by 2023 Iowa Acts, House File 68, section 7, if they enrolled in and attended a nonpublic school at any point in the immediately preceding school year.

281—20.3(257) Application process. The parent or guardian of an eligible student may request an ESA payment during the time period specified by Iowa Code section 257.11B(3) as enacted by 2023 Iowa Acts, House File 68, section 7, by applying to the department, in a manner prescribed by the department. Within the time frame provided by Iowa Code section 257.11B(5) as enacted by 2023 Iowa Acts, House File 68, section 7, the department will provide a response to the application.

281—20.4(257) Administration, accountability, monitoring, and enforcement.

20.4(1) The department will take reasonable efforts to verify eligibility of parents, students, nonpublic schools, and providers to participate in this chapter, including verifying information with other state agencies.

20.4(2) The department will make an equal distribution of funds under this chapter to a third-party entity, for distribution to eligible students' accounts, after confirming enrollment at the start of the academic year and enrollment and attendance at the midpoint of the academic year.

20.4(3) The department's actions under Iowa Code section 257.11B(5) "e" and "f" as enacted by 2023 Iowa Acts, House File 68, section 7, may be any action consistent with the department's authority under Iowa Code section 256.1.

20.4(4) The department must recover all improperly paid ESA funds. The department and its director have flexibility to engage in voluntary collection activities if overpayments were based on a good faith error. For purposes of this chapter, a "false claim" is a statement made in conjunction with this program that is knowingly false or in reckless disregard of the truth.

20.4(5) A parent or guardian may appeal to the state board of education any administrative decision the department or third-party entity makes pursuant to this chapter, including determinations of eligibility, allowable expenses, and removal from the program. An appeal under this subrule must be signed and in writing. Electronic submissions and signatures are allowed. Any appeals under this subrule are timely if filed within 30 days of the date of the administrative decision and are governed by 281—Chapter 6.

These rules are intended to implement Iowa Code section 257.11B as enacted by 2023 Iowa Acts, House File 68.

[Filed 8/3/23, effective 9/27/23]

[Published 8/23/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/23/23.

ARC 7058C

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Rulemaking related to biofuel compatibility with underground storage tanks

The Environmental Protection Commission (Commission) hereby amends Chapter 135, "Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks," Iowa Administrative Code.

Legal Authority for Rulemaking

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

This rulemaking is adopted under the authority provided in 2022 Iowa Acts, House File 2128, section 32, signed by Governor Kim Reynolds on May 17, 2022.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 455G as amended by 2022 Iowa Acts, House File 2128.

Purpose and Summary

Chapter 135 regulates underground storage tanks used for the storage of regulated substances. This rulemaking aligns the administrative rules in that chapter with 2022 Iowa Acts, House File 2128, which recently amended Iowa Code chapter 455G. The legislation requires that all new, replacement, or converted gasoline or diesel fuel storage and dispensing infrastructure be compatible with E-85 and B-20 fuels, respectively.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on February 8, 2023, as **ARC 6884C**. A public hearing was held on February 28, 2023, at 1 p.m. in Conference Room 5 West, Wallace State Office Building, Des Moines, Iowa.

Mr. John Maynes of FUEL Iowa attended the public hearing. Mr. Maynes's comments were associated with Items 1, 3, 4, and 5 as they pertain to House File 2128, specifically in regard to the requirement for owners and operators to document compatibility and capability of equipment and in regard to DNR Form 542-1336 (UST System Checklist for Equipment Compatibility) and DNR Form 542-0510, Item 10, page 2 of 9 (Equipment Repair and Replacement Form). Prior to final implementation of the aforementioned forms, and the need for owners and operators to maintain records, Mr. Maynes believed that there are some points of House File 2128 that need further clarification so that owners and operators can complete the forms correctly once the final understanding of the regulation is determined. Mr. Maynes requested that the Department of Natural Resources (Department) consider convening a stakeholder group to evaluate and review the forms and to refine the forms to help owners and installers complete the forms in a proper manner to implement the rules and the intent of the legislation. The Department agreed to review the aforementioned existing forms and present the forms to Mr. Maynes and Iowa licensed installers for comment and consideration. However, this agreement does not require changes to the rules. Therefore, no changes from the Notice have been made based on these comments.

One nonsubstantive grammatical change was made to cross-references in paragraph 135.4(3)“c.”

Adoption of Rulemaking

This rulemaking was adopted by the Commission on April 18, 2023.

Fiscal Impact

This rulemaking 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 rulemaking, 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 rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 561—Chapter 10.

Review by Administrative Rules Review Committee

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking will become effective on September 27, 2023.

The following rulemaking action is adopted:

ITEM 1. Amend paragraph **135.4(3)“b”** as follows:

b. Owners and operators must have a UST installer licensed under 567—Chapter 134, Part C, submit the department's checklist for equipment compatibility for the UST system to the department at least 30 days prior to switching to a regulated substance containing greater than 10 percent ethanol or greater than 20 percent biodiesel, or any other regulated substance identified by the department.

ITEM 2. Adopt the following **new** paragraph **135.4(3)“c”**:

c. A retail dealer, as defined in Iowa Code section 214A.1, must show compliance with the requirements of Iowa Code sections 455G.32 and 455G.33, if applicable, by submitting and maintaining the applicable reporting and record-keeping documentation listed in subparagraphs 135.4(5)“a”(10), 135.4(5)“a”(11), 135.4(5)“b”(12), and 135.4(5)“b”(13).

ITEM 3. Amend subparagraph **135.4(5)“a”(9)** as follows:

(9) Notification prior to UST systems switching to certain regulated substances;

ITEM 4. Adopt the following **new** subparagraph **135.4(5)“a”(10)**:

(10) Documentation establishing compatibility and capability as required in Iowa Code section 455G.32, if applicable;

ITEM 5. Adopt the following **new** subparagraph **135.4(5)“a”(11)**:

(11) Documentation establishing compatibility and capability as required in Iowa Code section 455G.33, if applicable.

ITEM 6. Amend subparagraph **135.4(5)“b”(11)** as follows:

(11) Documentation of compliance for spill and overfill prevention equipment and containment sumps used for interstitial monitoring of piping (135.4(12));

ITEM 7. Adopt the following **new** subparagraph **135.4(5)“b”(12)**:

(12) Documentation establishing compatibility and capability as required in Iowa Code section 455G.32, if applicable;

ITEM 8. Adopt the following **new** subparagraph **135.4(5)“b”(13)**:

(13) Documentation establishing compatibility and capability as required in Iowa Code section 455G.33, if applicable.

[Filed 7/30/23, effective 9/27/23]

[Published 8/23/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/23/23.

ARC 7060C**IOWA FINANCE AUTHORITY[265]****Adopted and Filed****Rulemaking related to qualified allocation plans**

The Iowa Finance Authority hereby amends Chapter 12, “Low-Income Housing Tax Credits,” Iowa Administrative Code.

Legal Authority for Rulemaking

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

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 16.35 and Internal Revenue Code Section 42.

Purpose and Summary

The updated 2024 Qualified Allocation Plans (QAPs) set forth the purposes of the plans, administrative information required for participation, threshold criteria, selection criteria, postreservation requirements, the appeal process, and compliance-monitoring components. The plans also establish the fees for filing an application for low-income housing tax credits and for compliance monitoring. Copies of the QAPs are available upon request from the Authority and are available electronically on the Authority’s website at www.iowafinance.com. It is the Authority’s intent to incorporate the updated 2024 QAPs by reference consistent with Iowa Code chapter 17A and 265—subrules 17.4(2) and 17.12(2).

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on June 28, 2023, as **ARC 7043C**.

The Authority did not receive comments on the Notice but did receive comments on the draft QAP. Developers cited an increase in construction and financing costs and requested an increase in the project tax credit cap to allow easier financing for projects with 42 to 48 units. In response, the Authority increased the project tax credit cap to \$1.3 million from \$1.2 million. Developers also requested the ability to resyndicate their projects after 15 years, which was allowed in previous QAPs and is allowed by the Internal Revenue Service. Energy professionals requested consideration for higher energy efficiency scoring. The Authority agreed to make both changes.

A change from the Notice has been made to update the dates of incorporation to indicate the date that final changes to the QAPs were adopted by the Authority.

Adoption of Rulemaking

This rulemaking was adopted by the Authority on August 2, 2023.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rulemaking, the impact on jobs is expected to be consistent with the impact of previous years’ QAPs. The Low-Income Housing Tax Credit Program has had a substantial positive impact on employment in Iowa, creating many jobs annually in the construction, finance, and property management fields, among others.

IOWA FINANCE AUTHORITY[265](cont'd)

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 265—Chapter 18.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking will become effective on September 27, 2023.

The following rulemaking action is adopted:

ITEM 1. Amend rule 265—12.1(16) as follows:

265—12.1(16) Qualified allocation plans.

12.1(1) Four percent qualified allocation plan. The qualified allocation plan titled Iowa Finance Authority Low-Income Housing Tax Credit Program ~~2023~~ 2024 4% Qualified Allocation Plan (“4% QAP”) dated ~~December 7, 2022~~ August 2, 2023, shall be the qualified allocation plan for the allocation of 4 percent low-income housing tax credits consistent with IRC Section 42 and the applicable Treasury regulations and Iowa Code section 16.35. The 4% QAP is incorporated by reference pursuant to Iowa Code section 17A.6 and 265—subrules 17.4(2) and 17.12(2). The 4% QAP does not include any amendments or editions created subsequent to ~~December 7, 2022~~ August 2, 2023.

12.1(2) Nine percent qualified allocation plan. The qualified allocation plan titled Iowa Finance Authority Low-Income Housing Tax Credit Program ~~2023~~ 2024 9% Qualified Allocation Plan (“9% QAP”) shall be the qualified allocation plan for the allocation of 9 percent low-income housing tax credits consistent with IRC Section 42 and the applicable Treasury regulations and Iowa Code section 16.35. The 9% QAP is incorporated by reference pursuant to Iowa Code section 17A.6 and 265—subrules 17.4(2) and 17.12(2). The 9% QAP does not include any amendments or editions created subsequent to ~~November 2, 2022~~ August 2, 2023.

ITEM 2. Amend rule 265—12.2(16) as follows:

265—12.2(16) Location of copies of the plans.

12.2(1) 4% QAP. The 4% QAP can be reviewed and copied in its entirety on the authority's website at www.iowafinance.com. Copies of the 4% QAP, application, and all related attachments and exhibits shall be deposited with the administrative rules coordinator and at the state law library and shall be available on the authority's website. The 4% QAP incorporates by reference IRC Section 42 and the regulations in effect as of ~~December 7, 2022~~ August 2, 2023. Additionally, the 4% QAP incorporates by reference Iowa Code section 16.35. These documents are available from the state law library, and information about these statutes, regulations and rules is on the authority's website.

12.2(2) 9% QAP. The 9% QAP can be reviewed and copied in its entirety on the authority's website at www.iowafinance.com. Copies of the 9% QAP, the application, and all related attachments and exhibits shall be deposited with the administrative rules coordinator and at the state law library and shall be available on the authority's website. The 9% QAP incorporates by reference IRC Section 42 and the regulations in effect as of ~~November 2, 2022~~ August 2, 2023. Additionally, the 9% QAP incorporates

IOWA FINANCE AUTHORITY[265](cont'd)

by reference Iowa Code section 16.35. These documents are available from the state law library, and information about these statutes, regulations and rules is on the authority's website.

[Filed 8/2/23, effective 9/27/23]

[Published 8/23/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/23/23.

ARC 7059C

SECRETARY OF STATE[721]

Adopted and Filed

Rulemaking related to five-year review of rules

The Secretary of State hereby amends Chapter 1, "Description of Organization," Chapter 2, "Rules of Practice," Chapter 3, "Administrative Hearings," Chapter 4, "Forms," Chapter 30, "Uniform Commercial Code," Chapter 40, "Corporations," Chapter 42, "Athlete Agent Registration," Chapter 43, "Notarial Acts," and Chapter 45, "Mechanics' Notice and Lien Registry," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 17A.4 and 17A.7.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 17A.7.

Purpose and Summary

The changes are intended to do the following:

Item 1: Amend subrule 1.1(1) by clarifying the location of the Secretary's Capitol office and updating the main phone number, strike subrule 1.1(3) to reflect current organizational structure, and renumber subrule 1.1(4) accordingly.

Item 2: Amend subrule 1.2(1) to reflect current division names and account for a change in terminology in Iowa Code chapter 490, amend subrule 1.2(2) to account for the change in business entity reporting frequency from annual to biennial, and amend subrule 1.2(3) to direct questions about corporation matters to the Business Services Division generally, rather than to the director specifically.

Item 3: Amend subrules 1.3(1) and 1.3(2) to reflect current division names and structure and the current phone number.

Item 4: Amend subrule 1.5(1) to reflect current officer titles and subrule 1.5(3) to reflect the current phone number.

Item 5: Strike subrule 1.6(1) to reflect current division structure, renumber the subsequent subrules accordingly, and amend renumbered subrule 1.6(1) to reflect current division names and structure.

Item 6: Amend rule 721—1.8(17A) to improve clarity by removing unnecessary language and to reflect current division names and structure.

Item 7: Amend rule 721—1.9(17A) to reflect current officer titles and structure.

Item 8: Amend rule 721—1.10(17A) to indicate that 28E agreements are now submitted electronically.

Item 9: Adopt a new implementation sentence in Chapter 1.

Item 10: Amend rule 721—2.1(17A) to indicate the availability of forms for viewing and download through the Secretary of State website.

Item 11: Amend rule 721—2.2(17A) to adjust grammar.

Item 12: Amend subrule 2.3(5) to reflect reversion of the annual fee for payment accounts from \$100 to \$25 and removal of the note about the reversion, both pursuant to 2017 Iowa Acts, Senate File 516; strike subrule 2.3(6) since it is no longer applicable; and renumber subrule 2.3(7) accordingly.

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Item 13: Amend subrule 2.4(4) to reflect a renumbered Iowa Code chapter.

Item 14: Amend the implementation sentence in Chapter 2 to reflect the repeal of Iowa Code section 9.4A as enacted by 2017 Iowa Acts, Senate File 516, section 23.

Item 15: Amend rule 721—3.1(17A) to add a serial comma.

Item 16: Amend the definition of “presiding officer” in rule 721—3.2(17A) to reflect current roles.

Item 17: Amend subrule 3.3(2) to correct a typographical error.

Item 18: Amend subrule 3.6(8) to account for the nature of current recording technology.

Item 19: Amend rule 721—4.1(17A) to improve clarity; account for current technology by adding the assertion that the forms used by the Secretary of State Fast Track Filing online system are substantively the same forms described in the rule; indicate the availability of forms at the Secretary of State’s Lucas State Office Building office and through the Secretary of State website; reflect changes in the titles of forms, addition of new forms, and removal of forms that are no longer used; and reorganize the listing of forms.

Item 20: Rescind and replace rule 721—4.2(17A) to reflect changes in the titles of forms, addition of new forms, and removal of forms that are no longer used, as well as reorganize the listing of forms.

Item 21: Rescind and replace rule 721—4.4(17A) to reflect changes in the titles of forms, addition of new forms, and removal of forms that are no longer used, as well as reorganize the listing of forms.

Item 22: Rescind and replace rule 721—4.5(17A) to reflect changes in the titles of forms, addition of new forms, and removal of forms that are no longer used, as well as reorganize the listing of forms.

Item 23: Rescind rule 721—4.6(9A,17A) as a result of the reorganization of the listing of forms.

Items 24 to 28: Amend rule 721—30.1(554) to improve clarity, update Iowa Code references, update the Secretary of State website address, correct the name of the International Association of Commercial Administrators, and reflect updated computer file formats and data transmission methods.

Item 29: Amend rule 721—30.2(554) to update an Iowa Code reference and to better reflect Secretary of State procedures.

Item 30: Amend rule 721—30.3(554) to improve clarity, update Iowa Code references, correct the name of the International Association of Commercial Administrators, and reflect updated computer filing and search methods.

Item 31: Amend rule 721—30.4(554) to improve clarity, account for the nature of current data storage technology, strike subrule 30.4(14) to remove the reference to a filing method that is no longer available, and replace it with a subrule reflecting the addition of a method for asserting that a Uniform Commercial Code (UCC) Article 9 filing was made without authorization pursuant to Iowa Code section 554.9513A.

Item 32: Amend rule 721—30.5(554) to improve clarity and correct the name of the International Association of Commercial Administrators.

Item 33: Amend the implementation sentence in Chapter 30 to reflect the repeal of Iowa Code section 9.4A as enacted by 2017 Iowa Acts, Senate File 516, section 23.

Item 34: Amend rule 721—40.1(490,499,504A) to update Iowa Code chapter references to account for renumbering and applicable chapters in the parenthetical implementation statute and the implementation sentence; indicate that the rule applies to limited liability companies and limited partnerships; update references to “telecopier” and “microfilming” to “fax” and “scanning,” respectively; add email as a communication method by which the Secretary of State may contact document remitters; add new subrules 40.1(2), 40.1(3), and 40.1(4), specifying the requirement for proper captioning of business entity document submissions, delivery method parameters of same-day preclearance service, and the requirement that forms provided by the Secretary of State must be used if such requirement is permitted by law; renumber the subsequent subrules accordingly; strike subrule 40.1(6) to account for elimination of the Iowa Code section 490.130 multiple-copy requirement; and renumber subrule 40.1(7) accordingly.

Item 35: Rescind rule 721—40.2(490,499,504A) since it is no longer applicable.

Item 36: Renumber subsequent rules in Chapter 40 accordingly.

Item 37: Amend renumbered rule 721—40.2(487,490,504A) to update Iowa Code chapter references to account for renumbering and applicable chapters in the parenthetical implementation statute and sections in the implementation sentence; update the term “corporate” to “business entity” to reflect the

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broader content of the rule; revise the list in renumbered subrule 40.2(2) to improve clarity, incorporate the provisions of renumbered subrules 40.2(3) to 40.2(6), and account for the addition of “Benefit Corporation” as an available suffix under Iowa Code chapter 490; amend renumbered subrule 40.2(3) to account for protected series suffixes; strike renumbered subrules 40.3(4) to 40.3(10) and 40.3(12); renumber the remaining subrules accordingly; change the numbered list to lettered paragraphs in renumbered subrule 40.2(7) and to account for a change in terminology in Iowa Code chapter 490.

Item 38: Amend renumbered rule 721—40.3(490,496C,497,498,499,504A) to update Iowa Code chapter references to account for renumbering and applicable chapters; update the term “corporate entity” to “business entity” to reflect the broader content of the rule; and update Iowa Code references to reflect the addition of paragraphs to Iowa Code sections 490.122 and 504.113 and to reflect renumbering.

Item 39: Amend renumbered rule 721—40.4(491,496A,499,504A,548) to update Iowa Code chapter references in the parenthetical implementation statute to account for renumbering and applicable chapters.

Item 40: Amend the list of trademark classes in renumbered subrule 40.5(1) to correct punctuation, improve clarity, and add modern goods and services classes; amend renumbered subrule 40.5(4) to improve clarity and more clearly reflect internal procedure; and amend renumbered subrule 40.5(9) to improve clarity.

Item 41: Amend renumbered rule 721—40.6(80GA,SF2274) to update the reference from the legislation to the Iowa Code chapter in the parenthetical implementation statute, update the Iowa Code reference related to and remove the name of the Revised Iowa Nonprofit Corporation Act fees list, and amend subrule 40.7(1) to eliminate the inapplicable words “not to exceed a total of” from the statement of change list entry.

Item 42: Amend renumbered rule 721—40.7(488,489,490) to improve grammar and conciseness.

Item 43: Amend renumbered rule 721—40.9(488,489,490,504) to improve conciseness and eliminate reference to payment by check for electronic filings.

Item 44: Amend the implementation sentence in Chapter 40 to reflect the repeal of Iowa Code section 9.4A as enacted by 2017 Iowa Acts, Senate File 516, section 23.

Item 45: Renumber rule 721—42.4(9A,17A) as 721—42.2(9A,17A).

Item 46: Amend renumbered rule 721—42.2(9A,17A) to reflect current division names.

Item 47: Amend rule 721—43.1(9B) to eliminate references to legislation that has been codified in the Iowa Code.

Item 48: Amend rule 721—43.2(9B) to strike references to legislation that has been codified in the Iowa Code.

Item 49: Amend rule 721—43.5(9B) to strike references to legislation that has been codified in the Iowa Code.

Item 50: Amend rule 721—43.7(9B) to strike references to legislation that has been codified in the Iowa Code.

Item 51: Amend rule 721—43.9(9B) to strike references to legislation that has been codified in the Iowa Code and improve clarity.

Item 52: Amend rule 721—43.10(9B) to strike references to legislation that has been codified in the Iowa Code.

Item 53: Amend paragraph 43.11(1)“a” to strike a reference to legislation that has been codified in the Iowa Code.

Item 54: Amend subrule 45.1(1) to strike references to time-limited conditions that can no longer exist.

Item 55: Amend rule 721—45.2(572) to improve conciseness.

Item 56: Amend rule 721—45.3(572) to improve conciseness.

Item 57: Amend rule 721—45.4(572) to improve conciseness and account for the addition of “county or counties” language in Iowa Code section 572.8(3).

Item 58: Amend rule 721—45.5(572) to improve conciseness and account for the addition of “county or counties” language in Iowa Code section 572.8(3).

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Item 59: Amend rule 721—45.6(572) to improve conciseness and account for the addition of “county or counties” language in Iowa Code section 572.8(3).

Item 60: Adopt new subrule 45.8(3) to account for a submission requirement adopted by the Office of the Secretary of State for the purpose of documenting requests by property owners for release of bond.

Item 61: Amend rule 721—45.11(572) to improve conciseness.

Item 62: Amend rule 721—45.12(572) to improve conciseness.

Item 63: Amend rule 721—45.13(572) to improve conciseness and amend subrule 45.13(3) to eliminate Mechanics’ Notice and Lien Registry (MNLR) data download subscription service and to eliminate an outdated data-delivery method.

Item 64: Amend rule 721—45.14(572) to improve conciseness.

Item 65: Amend rule 721—45.15(572) to improve conciseness and account for the addition of “county or counties” language in Iowa Code section 572.8(3).

Item 66: Amend rule 721—45.16(572) to improve conciseness by incorporating the content of subparagraph 45.16(1)“a”(3) into subparagraph 45.16(1)“a”(2) and renumbering subparagraph 45.16(1)“a”(4) accordingly.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on February 8, 2023, as **ARC 6886C**. No public comments were received.

In the Notice, Item 12 amended the language of the introductory paragraph of rule 721—2.3(9,631) and subrule 2.3(2) to reflect the fact that the Secretary of State no longer approves new payment accounts. In this final rulemaking, those changes were not adopted. This is a popular way for institutional customers to pay. The rest of Item 12 remains unchanged. Item 40 initially added a new subrule 40.5(13); however, it was decided to address that in a future rulemaking. Consequently, that subrule has not been adopted. Item 37 was also amended to update the parenthetical statute for rule 721—40.2(487,490,504A).

Adoption of Rulemaking

This rulemaking was adopted by the Secretary of State on August 1, 2023.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking will become effective on September 27, 2023.

The following rulemaking action is adopted:

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ITEM 1. Amend rule 721—1.1(17A) as follows:

721—1.1(17A) Central organization.

1.1(1) The secretary of state is the head of the agency. The secretary is an elected official elected for a term of four years. The secretary's office is on the ~~main~~ first floor of the Statehouse, Des Moines, Iowa 50319, telephone number ~~(515)281-5864~~ (515)281-6230. The secretary is assisted by the following appointed officials who are responsible to the secretary.

1.1(2) The deputy secretary of state is appointed by the secretary and performs such duties as the secretary may prescribe, including general ~~supervisor~~ supervision of all matters and personnel pertaining to the office. During the absence or disability of the secretary, or as directed by the secretary, the deputy possesses most of the powers and performs the duties of the secretary.

~~1.1(3) Two administrative assistants are appointed by the secretary and perform such duties as presented by the secretary or the deputy. One of the administration assistants acts as the corporation director and the other acts as the uniform commercial code director.~~

~~1.1(4)~~ **1.1(3)** The secretary of state's office is an administrative and ministerial office performing the following duties: in the following rules.

ITEM 2. Amend rule 721—1.2(17A) as follows:

721—1.2(17A) Corporations.

1.2(1) All matters involving corporations, profit and nonprofit, organized in Iowa or authorized to do business in Iowa, are handled by the ~~corporation~~ business services division ~~under the supervision of a director~~. The office issues all certificates of incorporation for new domestic corporations and issues certificates for authority and certificates of registration to do business in Iowa for foreign corporations. Also, certificates of good standing, amendments, mergers, certified copies of articles and other corporate papers are issued by the office.

1.2(2) The ~~annual~~ biennial report forms required of all corporations are sent from the office and upon return by the corporations are processed for accuracy and proper fee and kept for public record.

1.2(3) Any questions on corporations or procedures should be directed to the ~~director of the~~ business services division located in the Lucas State Office Building, Des Moines, Iowa 50319. The telephone number is (515)281-5204.

ITEM 3. Amend rule 721—1.3(17A) as follows:

721—1.3(17A) Uniform Commercial Code.

1.3(1) All matters pertaining to the secretary of state's responsibilities under the Uniform Commercial Code are processed by the ~~uniform commercial code~~ business services division of the office. See 721—Chapter 30.

~~1.3(2) The uniform commercial code business services division is under the supervision of a director. The office is located in the Lucas State Office Building, 321 E. East 12th Street, Des Moines, Iowa 50319, and the telephone number is (515)281-5274 (515)281-5204.~~

ITEM 4. Amend rule 721—1.5(17A) as follows:

721—1.5(17A) Land office.

1.5(1) The state land office is a part of the general office and is under the supervision of a land ~~office~~ clerk records officer. A record of all lands owned by the state of Iowa, the original land surveys and plats are part of the records.

1.5(2) Patents issued by the state of Iowa are prepared by the land office.

1.5(3) The land office is located in the general office on the first floor of the Statehouse, and the telephone number is ~~(515)281-8360~~ (515)281-5864.

ITEM 5. Amend rule 721—1.6(17A) as follows:

721—1.6(17A) Notaries public.

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~~1.6(1)~~ The notary public division is part of the general office and is under the supervision of a notary public clerk.

~~1.6(2)~~ **1.6(1)** The notary public business services division processes all applications for notary public commissions and on expiration of commissions sends out applications for renewal and processes their return. The commission is signed by the secretary of state.

~~1.6(3)~~ **1.6(2)** The division also issues certificates of good standing upon the payment of the proper fee. Notaries public have statewide jurisdiction.

~~1.6(4)~~ **1.6(3)** Notary public services are part of the business services division located in the Lucas State Office Building, Des Moines, Iowa 50319. The telephone number is (515)281-5204.

ITEM 6. Amend rule 721—1.8(17A) as follows:

721—1.8(17A) Process agent. The secretary of state, by various chapters in the Iowa Code, especially Iowa Code sections 496A.13, 496A.112, 496A.116 and 617.3, is made the process agent upon whom the service of original notices in law suits may be made. The filing of the original notices is handled by the ~~secretary to the deputy who is in the general office~~ business services division. For location see ~~1.1(1)~~ 1.2(3).

ITEM 7. Amend rule 721—1.9(17A) as follows:

721—1.9(17A) Oaths and bonds. Oaths of office, and bonds where required, for elected officials, appointed officials, and appointees to various boards and commissions are filed in the general office. The ~~secretary to the secretary~~ records officer is in charge of this function. For location and telephone number see ~~1.1(1)~~ 1.5(3).

ITEM 8. Amend rule 721—1.10(17A) as follows:

721—1.10(17A) Joint governmental agreements. Joint governmental agreements under Iowa Code chapter 28E are filed, without charge, ~~in the general office~~ electronically through the secretary of state website. ~~The secretary to the deputy handles this function. For location and telephone number see 1.1(1).~~

ITEM 9. Adopt the following **new** implementation sentence in **721—Chapter 1**:
These rules are intended to implement Iowa Code chapter 17A.

ITEM 10. Amend rule 721—2.1(17A) as follows:

721—2.1(17A) Forms used. Copies of all forms are ~~kept in the main office and may be inspected by anyone during the working day~~ available for viewing and download on the secretary of state website: sos.iowa.gov.

ITEM 11. Amend rule 721—2.2(17A) as follows:

721—2.2(17A) Filing complaints. All complaints or objections relating to any matter involving the secretary of state's office shall be in writing addressed to the secretary of state. The complaint or objection may be either mailed or hand delivered. Oral complaints or objections will be handled ~~in~~ through an informal procedure by the secretary or secretary's designee with the complainant at the convenience of both parties.

ITEM 12. Amend rule 721—2.3(9,631) as follows:

721—2.3(9,631) Payment for services. The secretary of state may approve accounts to be used for the payment of services provided by the secretary of state. A user of a service provided by the secretary of state may make payment for the service by authorizing a charge to be made upon an account held by the user.

2.3(1) to 2.3(4) No change.

2.3(5) An annual fee of ~~\$100~~ \$25 shall be paid by an account holder for the privilege of maintaining an account. The annual fee shall cover a 12-month period measured from the first day of the month in

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which the account is approved by the secretary of state. An account that is not delinquent one month prior to the expiration of the annual period shall be renewed upon the payment of the annual fee. The secretary of state shall charge the annual fee to the account on the statement of the account for the monthly period prior to the expiration date. The annual fee shall be used for the purpose of offsetting the expenses incurred by the secretary of state in maintaining the account. ~~Upon the expiration of the technology modernization fund in Iowa Code section 9.4A, as created by 2017 Iowa Acts, Senate File 516, section 23, the fee will revert to the amount authorized prior to July 1, 2017. Funds generated by the increase of this fee shall be exclusively used for improving business services technology.~~

~~2.3(6) Accounts maintained by the secretary of state prior to July 1, 1989, shall be terminated at the close of business on June 30, 1989, unless the holder of the account complies with subrule 2.3(5) and authorizes the secretary of state to continue the account by filing a renewal application on a form prescribed and furnished by the secretary of state.~~

~~2.3(7)~~ **2.3(6)** The secretary of state shall assess a fee of \$10 for the receipt of a document filed under Iowa Code section 631.4(1) "d."

ITEM 13. Amend subrule 2.4(4) as follows:

2.4(4) Public records shall not be removed from the offices of the secretary of state, except for the purposes of:

- a. Complying with a subpoena duces tecum,
- b. Microfilming the records by the department of general services, or
- c. Retaining and preserving the public records pursuant to Iowa Code chapter ~~304~~ 305.
- d. Complying with Iowa Code section 2B.10.

ITEM 14. Amend **721—Chapter 2**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 17A, 490, 491, 497, 498, 499, 504, and 554 (Article 9) and 2017 Iowa Acts, Senate File 516, section 23.

ITEM 15. Amend rule 721—3.1(17A) as follows:

721—3.1(17A) Scope. Iowa Code chapter 17A and the rules contained in this chapter govern the practice, procedure, and conduct of contested case proceedings, including proceedings related to the grant, denial, revocation, or renewal of any license issued by the agency where such action is required by constitution or statute to be preceded by notice and opportunity for an evidentiary hearing.

ITEM 16. Amend rule **721—3.2(17A)**, definition of "Presiding officer," as follows:

"*Presiding officer*" means the person assigned to hear and decide the contested case, whether that individual is the ~~agency director~~ secretary or secretary's designee, or an administrative law judge appointed according to Iowa Code chapter 17A.

ITEM 17. Amend subrule 3.3(2) as follows:

3.3(2) Prehearing conference. At the discretion of the presiding officer or on the motion of any party to the contested case, a ~~preheating~~ prehearing conference may be held for the purpose of settlement of the case, facilitating the hearing, or facilitating the decision of the presiding officer. Notice shall be given to the parties of the time and place of the conference and its purpose. A record shall be made of all agreements and actions resulting from any conference. The presiding officer may issue an order setting forth all agreements and actions.

ITEM 18. Amend subrule 3.6(8) as follows:

3.6(8) Proceedings recorded and open to the public. The hearing shall be recorded by ~~tape~~ audio recording. An individual may demand that the hearing be recorded by a certified shorthand reporter, but that party must bear all costs associated with the shorthand reporter. The record of hearing or a transcript shall be filed with the authority and maintained for a period of five years.

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ITEM 19. Amend rule 721—4.1(17A) as follows:

721—4.1(17A) Forms and instructions. Forms and their instructions are developed by the agency in accordance with statutory directives. Forms used on the secretary of state website's fast track filing system have the same functions and descriptions as the forms described in this chapter.

~~Copies of forms and instructions of a general nature may be seen at the Office of Secretary of State, Statehouse, Des Moines, Iowa 50319. Copies of forms and instructions relating to corporation matters, the uniform commercial code Uniform Commercial Code, elections, and other services may be seen at the respective divisions which are located in the secretary of state's Lucas State Office Building office, Des Moines, Iowa 50319; or on the secretary of state website at sos.iowa.gov.~~

The subrules which follow list and describe those forms and instructions which members of the public use when dealing with the agency and its various divisions. ~~Each direction of every instruction shall be complied with and each question or portion of every form answered in the same manner as if the forms and instructions were embodied in these rules.~~

4.1(1) Forms of general application.

Form Number	Description
GLO-1	Public disclosure of gifts made to a "local official," "local employee" or to the person's immediate family
GEN-1	Certification of various filings in the office of the Secretary of State, for example, incorporation of cities, legislative bills and other documents

a. Public disclosure of gifts made to a "local official," "local employee," or to the person's immediate family.

b. Disaster Recovery Registration—used for registering in compliance with Iowa Code chapter 29C.

c. Apostille or Certification Request Form—used to order apostilles or certified copies.

d. Condemnation Application—for use by county recorders and sheriffs pursuant to Iowa Code sections 6B.3(3) "b" and 6B.38(2).

e. Credit Card Payment Authorization Form—used to pay fees with a credit or debit card.

f. Charge Transaction Form—used to charge fees to an existing secretary of state charge account.

g. Transient Merchant Application—application for transient merchant license required by Iowa Code section 9C.3.

h. Application for Registration/Renewal as an Athlete Agent—used to apply for a new certificate of registration to act as an athlete agent in the state of Iowa or to renew an existing registration.

4.1(2) Notary public forms. Copies of notary public forms are available to the public on the secretary of state website at sos.iowa.gov or upon request to the Notary Clerk, Office of the Secretary of State, Lucas State Office Building, Des Moines, Iowa 50319. The telephone number is (515)281-5204.

a. Application for Commission as Notary Public—used to apply to be commissioned as an Iowa notary public.

b. Application for Renewal of Commission—used to apply to renew an existing Iowa notary public commission.

c. Notary Public Change/Amendment to Application—used to update an Iowa notary public commission record.

d. Certificate of Notarial Commission.

e. Statement of Complaint Regarding a Notary Public, Notarial Officer, or Remote Notarization Transaction.

f. Application for Approval to Perform Notarial Acts for Remotely Located Individuals.

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Form Number	Description
NO-1	Application for appointment of Notary Public
NO-2	Notarial Bond Form
NO-3	Application for reappointment of Notary Public
NO-4	Certificate of Notarial Commission
NO-5	Certificate of Prothonotary

Copies of application and bond forms for notaries public are available to the public upon request to the Notary Clerk, Office of the Secretary of State, Lucas State Office Building, Des Moines, Iowa 50319. The telephone number is (515)281-5204.

4.1(3) Trademark registration forms.

a. Trademark/Service Mark Registration Application—application to register a mark currently in use in Iowa.

b. Trademark/Service Mark Renewal Application—application to apply to renew mark registration for one additional five-year period.

c. Trademark Assignment Application—to assign a mark registration from current registrant to a new registrant.

4.1(4) Credit services organization forms.

a. Registration of Credit Services Organization—registration statement required by Iowa Code section 538A.5.

b. Credit Services Organization Bond Form—submitted with Iowa Code section 538A.4 surety bond filing.

c. Surety Account Notice for a Credit Services Organization—submitted in accordance with Iowa Code section 538A.4 to notify the secretary of state of establishment of a surety account.

This rule is intended to implement Iowa Code chapter 17A.

ITEM 20. Rescind rule 721—4.2(17A) and adopt the following **new** rule in lieu thereof:

721—4.2(17A) Business entity forms. Copies of business entity forms are available to the public on the secretary of state website at sos.iowa.gov or upon request to the Business Services Division, Office of the Secretary of State, Lucas State Office Building, Des Moines, Iowa 50319. The telephone number is (515)281-5204.

4.2(1) For-profit and nonprofit business entity forms.

a. Certificate of Good Standing—shows that a corporation is in good standing and is also used to reflect that certain filings have not been made.

b. Certification Certificates—certifies copies attached are true reproductions of documents on file.

c. Application for Certificate of Withdrawal—used by a foreign entity to stop business in Iowa.

d. Profit Corporation Statement of Withdrawal—used by a foreign profit corporation to stop business in Iowa.

e. Application for Certificate of Authority—used by a foreign entity to apply for authority to do business in Iowa.

f. Foreign Profit Corporation Registration Statement—used by a foreign profit corporation to apply for authority to do business in Iowa.

g. Certificate of Authority—issued to foreign entities that have registered to do business in Iowa.

h. Application for Reinstatement—used by an administratively dissolved corporation, limited liability company, or cooperative to apply for reinstatement.

i. Application for Reservation of Name—form by which applicant can reserve an entity name for future use.

j. Fictitious Name Resolution—used by a registered entity to notify the office of its adoption of a fictitious name.

k. Statement of Change of Registered Office and/or Registered Agent—used by a registered entity to change its registered office and/or registered agent.

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- l.* Appointment of Agent (501B)—used by an unincorporated nonprofit association to appoint its registered office and registered agent.
- m.* Application for Amended Certificate of Authority—used by authorized foreign entities to reflect changes of name or authorized purposes.
- n.* Amended Foreign Registration Statement—used by authorized foreign profit corporations to reflect changes of name or other information.
- o.* Application for Registration of a Corporate Name—form by which a foreign corporation may register a name.
- p.* Application for Renewal of Registration of Corporate Name—used to renew registration of name.
- q.* Notice of Transfer of Reservation of Name—used to transfer an entity name reservation from one person to another.

4.2(2) Biennial reports.

- Biennial Report for an Iowa Corporation—required to be filed by all domestic for-profit corporations.
- Biennial Report for a Foreign Corporation—required to be filed by all foreign for-profit corporations.
- Iowa Nonprofit Biennial Report—required to be filed by all domestic nonprofit corporations.
- Foreign Nonprofit Biennial Report—required to be filed by all foreign nonprofit corporations.
- Iowa Professional Biennial Report—required to be submitted by domestic professional corporations.
- Domestic Professional Corporation Biennial Report Statement Under Oath—required by Iowa Code section 496C.21(1) “b” to be submitted with the Iowa professional biennial report.
- Foreign Professional Biennial Report—required to be filed by foreign professional corporations.
- Foreign Professional Corporation Biennial Report Statement Under Oath—required by Iowa Code section 496C.21(1) “c” to be submitted with the foreign professional biennial report.
- Cooperative Association Biennial Report—required to be filed by cooperative associations.

4.2(3) Agricultural reporting.

- a.* Biennial Agricultural Report—used by U.S. holders of Iowa agricultural land to comply with Iowa Code chapter 10B biennial reporting requirements.
- b.* Pork and Beef Processor Report—used by Iowa pork and beef processors to comply with Iowa Code chapter 202B annual reporting requirements.
- c.* Registration of Nonresident Alien Land Ownership—used by non-U.S. holders of Iowa agricultural land to comply with Iowa Code chapter 9I registration requirements.
- d.* Nonresident Alien Land Ownership Report—used by non-U.S. holders of Iowa agricultural land to comply with Iowa Code chapter 9I annual reporting requirements.

Information regarding forms for agricultural reporting may be requested from the Business Services Division, Office of the Secretary of State, Lucas State Office Building, Des Moines, Iowa 50319. The telephone number is (515)281-5204.

This rule is intended to implement Iowa Code sections 9I.7, 9I.8, 9I.9, 10B.4, 202B.301, and 202B.302.

ITEM 21. Rescind rule 721—4.4(17A) and adopt the following **new** rule in lieu thereof:

721—4.4(554,17A) Uniform Commercial Code forms.

- UCC1—Financing Statement.
- UCC1Ad—Financing Statement Addendum (used in connection with UCC1).
- UCC3—Financing Statement Amendment.
- UCC3Ad—Financing Statement Amendment Addendum (used in connection with UCC3).
- UCC5—Information Statement.
- UCC11—Information Request.
- Affidavit of Wrongful Filing—used to assert that a UCC document was not authorized to be filed and was caused to be communicated to the filing office with the intent to harass or defraud the affiant.
- Master File Agreement—used to order corporation and UCC data.

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Security Authorization Request—used to apply for security authorization to receive corporation and UCC data.

This rule is intended to implement Iowa Code chapter 554 (Article 9).

ITEM 22. Rescind rule 721—4.5(17A) and adopt the following **new** rule in lieu thereof:

721—4.5(572,17A) Mechanics' notice and lien registry (MNL) forms.

1. Mechanics' Notice and Lien Registry—used to provide submitter information in conjunction with other MNL forms.

2. Cover Page for Commencement of Work Notice—used in compliance with Iowa Code section 572.13A.

3. Cover Page for Preliminary Notice—used in compliance with Iowa Code section 572.13B.

4. Cover Page for Mechanics' Lien - Commercial—used in compliance with Iowa Code section 572.8.

5. Cover Page for Mechanics' Lien - Residential—used in compliance with Iowa Code section 572.8.

6. Mechanics' Lien—used to comply with Iowa Code section 572.8.

7. Assignment of Mechanics' Lien—used to transfer a lien.

8. Cover Page for Bond for Discharge of Lien—used in compliance with Iowa Code section 572.15.

9. Cover Page for Bond to Prevent Exemplary Damages—used in compliance with Iowa Code section 572.30(2).

10. Affidavit for Release of Mechanics' Lien Bond—used in compliance with 721—subrule 45.8(3).

11. Cover Page for Demand for Acknowledgment—used in compliance with Iowa Code section 572.23.

12. Cover Page for Demand to Commence Action—used in compliance with Iowa Code section 572.28.

Information regarding forms for the mechanics' notice and lien registry may be requested from the Business Services Division, Office of the Secretary of State, Lucas State Office Building, Des Moines, Iowa 50319. The telephone number is (515)281-5204.

This rule is intended to implement Iowa Code chapter 572.

ITEM 23. Rescind and reserve rule **721—4.6(9A,17A)**.

ITEM 24. Amend subrules 30.1(2) to 30.1(5) as follows:

30.1(2) Definitions. The following terms shall have the respective meanings provided in this rule. Terms not defined in this rule which are defined in the UCC shall have the respective meanings accorded such terms in the UCC.

“*Active*” means a UCC record ~~that~~ has not reached the one-year anniversary of its lapse date.

“*Amendment*” means a UCC document that purports to amend the information contained in a financing statement. Amendments include assignments, continuations and terminations.

“*Assignment*” means an amendment that purports to reflect an assignment of all or a part of a secured party's power to authorize an amendment to a financing statement.

“*Continuation*” means an amendment that purports to continue the effectiveness of a financing statement.

“*Correction statement*” means a UCC document that purports to indicate that a financing statement is inaccurate or wrongfully filed.

“*File number*” means the unique ~~identifying information~~ identification number assigned to an initial financing statement by the filing officer for the purpose of identifying the financing statement and UCC documents relating to the financing statement in the filing officer's information management system. The filing number bears no relation to the time of filing and is not an indicator of priority.

“*Filing office*” and “*filing officer*” mean the office of the secretary of state. The address of the office is Lucas State Office Building, First Floor, 321 East 12th Street, Des Moines, Iowa 50319.

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“*Financing statement*” means a record or records composed of an initial financing statement and any filed record(s) relating to the initial financing statement.

“*Inactive*” means a UCC record ~~that~~ has reached the first anniversary of its lapse date.

“*Individual*” means a human being, or a decedent in the case of a debtor that is such decedent’s estate.

“*Initial financing statement*” means a UCC document that does not identify itself as an amendment or identify an initial financing statement to which it relates, as required by ~~2000 Iowa Acts, chapter 1149, sections 83, 85, and 89~~ Iowa Code sections 554.9512, 554.9514, and 554.9518.

“*Organization*” means a legal person who is not an individual as defined above.

“*Remitter*” means a person who tenders a UCC document to the filing officer for filing, whether the person is a filer or an agent of a filer responsible for tendering the document for filing. “Remitter” does not include a person responsible merely for the delivery of the document to the filing office, such as the postal service or a courier service, but does include a service provider who acts as a filer’s representative in the filing process.

“*Secured party of record*” means, with respect to a financing statement, a person whose name is provided as the name of a secured party or a representative of the secured party in an initial financing statement that has been filed. If an initial financing statement is filed under ~~2000 Iowa Acts, chapter 1149, section 85, subsection 1~~ Iowa Code section 554.9514(1), the assignee named in the initial financing statement is the secured party of record with respect to the financing statement. If an amendment of a financing statement which provides the name of a person as a secured party or a representative of a secured party is filed, the person named in the amendment is a secured party of record. If an amendment is filed under ~~2000 Iowa Acts, chapter 1149, section 85, subsection 2~~ Iowa Code section 554.9514(2), the assignee named in the amendment is a secured party of record. A person remains a secured party of record until the filing of an amendment of the financing statement which deletes the person.

“*Termination*” means an amendment intended to indicate that the related financing statement has ceased to be effective with respect to the secured party authorizing the termination.

“*UCC*” means the Uniform Commercial Code as adopted in this state and in effect from time to time.

“*UCC document*” means an initial financing statement, an amendment, an assignment, a continuation, a termination or a correction statement. The word “document” in the term “UCC document” shall not be deemed to refer exclusively to paper or paper-based writings; it being understood that UCC documents may be expressed or transmitted electronically or through media other than such writings. (NOTE: This definition is used for the purpose of these rules only. The use of the term “UCC document” in these rules has no relation to the definition of the term “document” in ~~2000 Iowa Acts, chapter 1149, section 2, subsection 1, paragraph “ad.”~~ Iowa Code section 554.9102(1) “*af.*”)

30.1(3) *Singular and plural forms.* Singular nouns shall include the plural form, and plural nouns shall include the singular form, unless the context otherwise requires.

30.1(4) *Place to file.* The filing office is the office for filing UCC documents relating to all types of collateral except for timber to be cut, as-extracted collateral (~~2000 Iowa Acts, chapter 1149, section 2, subsection 1, paragraph “f.”~~ Iowa Code section 554.9102(1) “*f.*”) and, when the relevant financing statement is filed as a fixture filing, goods which are or are to become fixtures. Regardless of the nature of the collateral, the filing office is the office for filing all UCC documents where the debtor is a transmitting utility.

30.1(5) *Filing office identification.* In addition to the promulgation of these rules, the filing office will disseminate information of its location, mailing address, telephone and fax numbers, and its Internet and other electronic “addresses” through usual and customary means.

a. On-line Online information service. The filing officer offers ~~on-line~~ online information services at www.sos.state.ia.us sos.iowa.gov.

b. Electronic mail. Electronic mail cannot be used for filing UCC documents or for requesting searches of the records of financing statements.

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ITEM 25. Amend subrule 30.1(7) as follows:

30.1(7) UCC document delivery. UCC documents may be tendered for filing at the filing office as follows:

a. to d. No change.

e. Electronic filing. UCC documents may be transmitted electronically using the XML standard approved by the International Association of ~~Corporation~~ Commercial Administrators as described in 30.3(3). UCC documents may also be transmitted electronically through ~~on-line~~ online entry as described in 30.3(4). The file time for a UCC document delivered by this method is the time that the filing office's UCC information management system analyzes the relevant transmission and determines that all the required elements of the transmission have been received in a required format and are machine-readable.

ITEM 26. Amend subrule 30.1(9) as follows:

30.1(9) Approved forms. Forms for UCC documents that conform to the requirements of this rule will be accepted by the filing office. Other forms will not be accepted by the filing office.

a. Approved forms. Only those forms approved for the relevant UCC document by the International Association of ~~Corporation~~ Commercial Administrators (the UCC National Forms) will be acceptable. Copies of these forms are available on the secretary of state's website at www.sos.state.ia.us www.sos.iowa.gov or by request to the secretary of state's office.

NOTE: The debtor's taxpayer identification number (TAX ID #), social security number (SSN), and employer identification number (EIN) are not required, and will be readily available to the public if entered on UCC documents.

b. Form—UCC search. The information request form approved by the International Association of ~~Corporation~~ Commercial Administrators will be acceptable. Other request forms will also be acceptable, provided they contain the information required by 30.5(2).

c. Electronic filings. A UCC document transmitted electronically pursuant to the International Association of ~~Corporation~~ Commercial Administrators' XML standard and the procedures set forth in 30.3(3) or pursuant to ~~on-line~~ online data entry procedures set forth in 30.3(4) will be acceptable.

ITEM 27. Amend subrule 30.1(10) as follows:

30.1(10) Filing fees.

a. Filing fee. The fee for filing and indexing a UCC document of one or two pages communicated on paper or in a paper-based format (including faxes) is \$10. If there are additional pages, the fee is \$20. ~~But the~~ The fee for filing and indexing a UCC document communicated by using a medium authorized by these rules ~~which that~~ is other than on paper or in a paper-based format shall be \$5.

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

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

ITEM 28. Amend subrules 30.1(13) and 30.1(14) as follows:

30.1(13) Public records services. Public records services are provided on a nondiscriminatory basis to any member of the public on the terms described in these rules. The following methods are available for obtaining copies of UCC documents and copies of data from the UCC information management system.

a. Individually identified documents. Copies of individually identified UCC documents are available in the following forms.

- (1) Paper.
- (2) ~~THE~~ PDF files.

b. Bulk copies of documents. Bulk copies of UCC documents are available in a ~~THE~~ PDF format ~~on CD-ROM or DVD~~ via download from the office.

c. Data from the information management system. A list of available data elements from the UCC information management system and the file layout of the data elements are available from the filing officer upon request. Data from the information management system is available as follows.

(1) Full extract. A bulk data extract of information from the UCC information management system is available on a weekly basis.

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(2) Format. Extracts from the UCC information management system are available via downloads from the filing office ~~or CD-ROM.~~

~~d. Direct on-line~~ online services. ~~On-line~~ Online services make UCC data and images available.

30.1(14) Fees for public records services. Fees for public records services are established as follows.

a. *Paper copies of individual documents.*

(1) Regular delivery method—\$1 per page.

(2) Fax delivery—\$2 per page.

b. *Bulk copies of documents.*

(1) Subscription basis—4 cents per page plus \$25 per week ~~(delivered on CD-ROM).~~

(2) Document image master file—4 cents per document.

c. *Data from the information management system—full extract.* Download—\$300.

~~(1) Download—\$300.~~

~~(2) CD-ROM—\$325.~~

ITEM 29. Amend rule 721—30.2(554) as follows:

721—30.2(554) Acceptance and refusal of documents.

30.2(1) No change.

30.2(2) Grounds for refusal of UCC document. The following grounds are the sole grounds for the filing officer's refusal to accept a UCC document for filing. As used herein, the term "legible" is not limited to refer only to written expressions on paper: it requires a machine-readable transmission for electronic transmissions and an otherwise readily decipherable transmission in other cases.

a. to d. No change.

e. *Identifying information.* A UCC document that does not identify itself as an amendment or identify an initial financing statement to which it relates, as required by ~~2000 Iowa Acts, chapter 1149, sections 83, 85, and 89~~ Iowa Code sections 554.9512, 554.9514, and 554.9518, is an initial financing statement.

f. to i. No change.

30.2(3) Grounds not warranting refusal. The sole grounds for the filing officer's refusal to accept a UCC document for filing are enumerated in 30.2(2). The following are examples of defects that do not constitute grounds for refusal to accept a document. They are not a comprehensive enumeration of defects outside the scope of permitted grounds for refusal to accept a UCC document for filing.

a. to c. No change.

d. *Insufficient information.* The UCC document contains less than the information required by Article 9 of the UCC, provided that the document contains the information required in 30.2(2) "a" through 30.2(2) "e."

NOTE: The debtor's taxpayer identification number (TAX ID #), social security number (SSN), and employer identification number (EIN) are not required, and will may be readily available to the public if entered on UCC documents.

e. and f. No change.

30.2(4) and 30.2(5) No change.

30.2(6) Acknowledgment.

a. At the request of a filer or remitter who files submits a paper or paper-based UCC document, the filing officer shall either:

(1) Send to said filer or remitter an image of the record of the UCC document showing the file number assigned to it and the date and time of filing; or

(2) If such filer or remitter provides a copy of such UCC document, note the file number and the date and time of filing on the copy and deliver or send it to said filer or remitter.

b. No change.

30.2(7) and 30.2(8) No change.

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ITEM 30. Amend rule 721—30.3(554) as follows:

721—30.3(554) UCC information management system.

30.3(1) No change.

30.3(2) *General provisions—UCC information management system.*

a. No change.

b. Names of debtors who are individuals. For the purpose of this paragraph, “individual” means a human being, or a decedent in the case of a debtor that is such decedent’s estate. This rule applies to the name of a debtor or a secured party on a UCC document who is an individual.

(1) to (3) No change.

(4) Truncation—individual names. Personal name fields in the UCC database are fixed in length. Although filers should continue to provide full names on their UCC documents, a name that exceeds the fixed length is entered as presented to the filing officer, up to the maximum length of the data entry field. The lengths of data entry name fields, except for ~~on-line~~ online filing (30.3(4) “b”), are as follows.

1. to 4. No change.

c. Names of debtors that are organizations. This rule applies to the name of an organization that is a debtor or a secured party on a UCC document.

(1) Single field. The names of organizations are stored in files that include only the names of organizations and not the names of individuals. A single field is used to store an organization name.

(2) Truncation—organization names. The organization name field in the UCC database is fixed in length. The maximum length, ~~except for on-line filing (30.3(4) “b”)~~, is 100 characters. Although filers should continue to provide full names on their UCC documents, a name that exceeds the fixed length is entered as presented to the filing officer, up to the maximum length of the data entry field.

d. and *e.* No change.

f. Initial financing statement. Upon the filing of an initial financing statement, the status of the parties and the status of the financing statement shall be as follows:

(1) Status of secured party. Each secured party named on an initial financing statement shall be a secured party of record, except that if the UCC document names an assignee, the secured party/assignor shall not be a secured party of record and the secured party/assignee shall be a secured party of record.

(2) Status of debtor. The status of a debtor named on the document shall be active and shall continue as active until one year after the financing statement lapses.

(3) Status of financing statement. The status of the financing statement shall be active. A lapse date shall be calculated five years from the file date, unless the initial financing statement indicates that it is filed with respect to a public-financing transaction or a manufactured-home transaction, in which case the lapse date shall be ~~thirty~~ 30 years from the file date, or if the initial financing statement indicates that it is filed against a transmitting utility, in which case there shall be no lapse date. A financing statement remains active until one year after it lapses, or if it is indicated to be filed against a transmitting utility, until one year after it is terminated with respect to all secured parties of record.

g. to *l.* No change.

30.3(3) *XML documents.*

a. and *b.* No change.

c. IACA standard adopted. The XML format for filing a UCC document, as adopted by the International Association of ~~Corporation~~ Commercial Administrators and in effect from time to time, is adopted in this state as a format for electronic transmission of UCC documents, although the filing officer shall, periodically and at the request of an authorized XML remitter, identify which versions and releases of the XML format are then in use by and acceptable to the filing office.

d. No change.

30.3(4) *Direct ~~on-line~~ online filing and search procedures.*

a. Direct ~~on-line~~ online filing and search services are available to any person with Internet access to the UCC secretary of state website: sos.iowa.gov. ~~On-line filing services require a preapproved account, in accordance with 30.1(11)“d.”~~

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b. Document filing procedures. Initial financing statements and amendments may be filed via the UCC secretary of state website, which allows for entry of information required on the approved UCC forms specified in 30.1(9). The ~~on-line~~ online filing procedure does not allow for the maximum length of characters as defined in 30.3(2) “b”(4). ~~and 30.3(2) “c.”~~ Therefore, ~~on-line~~ online filing should be used only if the filer is able to key all information without truncation. A record which is created by the filer in this manner is subject to all of the provisions of the UCC, as if it were a paper document submitted to the filing office. However, attachments may not be submitted. Filing instructions are provided on the website.

c. Search request procedures. A certified search naming a particular debtor may be obtained via the UCC secretary of state website: sos.iowa.gov. A request that is created by the filer in this manner is subject to all of the provisions of the UCC as if it were a paper search request submitted to the filing office. Images of individual financing statements may be obtained ~~on-line~~ online. Instructions are provided on the website.

ITEM 31. Amend rule 721—30.4(554) as follows:

721—30.4(554) Filing and data entry procedures.

30.4(1) No change.

30.4(2) *Document indexing and other procedures before archiving.*

a. to *d.* No change.

e. *Correspondence.*

(1) Acknowledgment of filing. If there is no ground for refusal of the document, an acknowledgment of filing is prepared as provided in 30.2(6) and communicated as follows:

1. to 4. No change.

5. UCC document transmitted by ~~on-line~~ online entry. Acknowledgment of filing is returned electronically.

(2) Notice of refusal. If there is a ground for refusal of the document, notification of refusal to accept the document is prepared as provided in 30.2(5) and communicated as follows:

1. to 4. No change.

5. UCC document transmitted by ~~on-line~~ online entry. Notice of refusal is returned electronically.

f. No change.

30.4(3) *Filing date.* The filing date of a UCC document is the date the UCC document is received with the proper filing fee if the filing office is open to the public on that date or, if the filing office is not open on that date, the filing date is the next date the filing office is open, except that, in each case, UCC documents received after 4:30 p.m. shall be deemed received on the ~~following day~~ next date the filing office is open. The filing officer may perform any duty relating to the document on the filing date or on a date after the filing date.

30.4(4) and **30.4(5)** No change.

30.4(6) *Errors of the filing officer.* The filing office may correct the errors of filing officer personnel in the UCC information management system at any time. If the correction is made after the filing officer has issued a UCC search report with a certification date that includes the filing date of a corrected document, the filing officer shall ~~proceed as follows: A~~ place a record relating to the relevant initial financing statement ~~will be placed~~ in the UCC information management system stating the date of the correction and explaining the nature of the corrective action taken. The record shall be preserved for so long as the record of the initial financing statement is preserved in the UCC information management system.

30.4(7) to **30.4(10)** No change.

30.4(11) *Initial financing statement.* A new record bearing the file number of the financing statement and the date and time of filing is opened in the UCC information management system for each initial financing statement ~~that bears the file number of the financing statement and the date and time of filing.~~

a. The name and address of each debtor that are legibly set forth in the financing statement are entered into the record of the financing statement. Each debtor name and city is ~~are~~ included in the searchable index and not removed until one year after the financing statement lapses.

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b. The name and address of each secured party that are legibly set forth in the financing statement are entered into the record of the financing statement.

c. The record is indexed according to the name of the debtor(s) and is maintained for public inspection.

d. A lapse date is established for the financing statement and the lapse date is maintained as part of the record, unless the initial financing statement indicates that it is filed against a transmitting utility.

30.4(12) Amendment. A record is created for the amendment that bears the file number for the amendment and the date and time of filing.

a. The record of the amendment is associated with the record of the related initial financing statement in a manner that causes the amendment to be retrievable each time a record of the financing statement is retrieved.

b. The name and address of each additional debtor and secured parties party are entered into the UCC information management system in the record of the financing statement. Each additional debtor name and city is are added to the searchable index and not removed until one year after the financing statement lapses.

c. If the amendment is a continuation, a new lapse date is established for the financing statement and maintained as part of its record.

30.4(13) No change.

~~**30.4(14) Global filings.**~~

~~*a.*—The filing officer may accept for filing a single UCC document for the purpose of amending more than one financing statement, for one or both of the following purposes:~~

~~(1) Amendment to change secured party name;~~

~~(2) Amendment to change secured party address.~~

~~*b.*—A blanket filing shall consist of a written document describing the requested amendment on a form approved by the filing office, and a machine-readable file furnished by the remitter and created to the filing officer's specifications containing appropriate indexing information. A copy of blanket filing specifications is available from the filing officer upon request. Acceptance of a blanket filing is conditioned upon the determination of the filing officer in the filing officer's sole discretion.~~

30.4(14) Affidavit of wrongful filing. Assessment is made, notices are sent, and records determined to be wrongful are terminated and reinstated in accordance with Iowa Code section 554.9513A.

30.4(15) Archives—general. This subrule relates to the maintenance of inactive financing statements and the ability of those archives to be searched.

a. Paper UCC documents.

(1) Storage. Paper UCC documents are scanned into the UCC information management system.

(2) Retention. Paper is not retained.

b. Databases. The UCC information management system is backed up to ~~magnetic tape~~ every business day.

30.4(16) to 30.4(18) No change.

ITEM 32. Amend rule 721—30.5(554) as follows:

721—30.5(554) Search requests and reports.

30.5(1) General requirements. The filing officer maintains for public inspection a searchable index ~~for~~ of all records of active UCC documents that provides for the retrieval of a record by the name of the debtor and by the file number of the initial financing statement to which the record relates and which associates with one another each initial financing statement and each filed UCC document relating to the initial financing statement.

30.5(2) Search requests. Search requests shall contain the following information.

a. Name searched. A search request should set forth the full correct name of a debtor or the name variant desired to be searched and must specify whether the debtor is an individual or an organization.

(1) Individual. The full name of an individual shall consist of a first name, a middle name or initial, and a last name, although a search request may be submitted with no middle name or initial and, if only

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a single name is presented (e.g., “Cher”), it will be treated as a last name, and a search will disclose only those UCC documents where only the last name was entered.

(2) Organization. The full name of an organization shall consist of the name of the organization as stated on the articles of incorporation or other organic documents in the state or country of organization or the name variant desired to be searched. A search request will be processed using the name in the exact form it is submitted.

b. Requesting party. The name and address of the person to whom the search report is to be sent, if applicable.

c. Fee. The appropriate fee shall be enclosed, if applicable, payable by a method described in 30.1(11).

d. Search request with filing. If a filer requests a search at the time a UCC document is filed, by checking the box on the form set forth in 30.1(9) “a,” the name to be searched will be the debtor name as set forth on the form, the requesting party will be the remitter of the UCC document, and the search request will be deemed to request a search that would be effective to retrieve all financing statements filed on or prior to the date the UCC document is filed.

30.5(3) No change.

30.5(4) Rules applied to search requests. Search results are created by applying standardized search logic to the name presented to the filing officer by the person requesting the search. Human judgment does not play a role in determining the results of the search. Only the following rules are applied to conduct searches.

a. to c. No change.

d. Words and abbreviations at the end of a name that indicate the existence or nature of an organization as set forth in the “Ending Noise Words” list as promulgated by the International Association of ~~Corporation~~ Commercial Administrators, and adopted from time to time, are disregarded (e.g., company, limited, incorporated, corporation, limited partnership, limited liability company or abbreviations of the foregoing).

e. to h. No change.

30.5(5) No change.

ITEM 33. Amend **721—Chapter 30**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 17A and 554 ~~and 2017 Iowa Acts, Senate File 516, section 23.~~

ITEM 34. Amend rule 721—40.1(490,499,504A) as follows:

721—40.1(9,490,499,504A 504) Filing of documents. Documents pertaining to profit corporations, nonprofit corporations, limited liability companies, limited partnerships, and cooperative associations shall be delivered for filing to the office of Secretary of State, Lucas State Office Building, Des Moines, Iowa 50319.

40.1(1) A copy of a signature, however made, is acceptable with regard to documents delivered to the secretary of state for filing pursuant to Iowa Code chapter 490.

40.1(2) A document pertaining to a profit corporation, a nonprofit corporation, a limited liability company, a limited partnership, or a cooperative association delivered to the secretary of state for filing must be captioned to describe the record’s purpose and be in a medium permitted by the secretary of state.

40.1(3) A document submitted for same-day preclearance service as provided in Iowa Code chapter 9 may be delivered by fax or in person. Preclearance service speed is not guaranteed on a document delivered by any other method.

40.1(4) Where the secretary of state prescribes and furnishes a form for the filing of a document pertaining to a profit corporation, a nonprofit corporation, a limited liability company, a limited partnership, or a cooperative association, the secretary requires the use of that form as permitted by Iowa law.

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~~40.1(2)~~ **40.1(5)** A document pertaining to a profit corporation, a nonprofit corporation, a limited liability company, a limited partnership, or a cooperative association delivered to the secretary of state for filing pursuant to the Iowa business corporation Act, Iowa Code chapter 490, may be delivered by telecopier fax to (515)242-5953.

~~40.1(3)~~ **40.1(6)** A document delivered by telecopier fax may be delivered at any time of day. The date and time of receipt printed on the document by the telecopier fax machine constitutes the date and time endorsement required by Iowa Code section 490.125(2).

~~40.1(4)~~ **40.1(7)** A document delivered by telecopier fax shall be printed on paper measuring 8½" by 11", unless a copy of a larger document, reduced to 8½" by 11" paper, is acceptable to the filing party. The document received by the secretary of state via telecopier fax shall constitute the copy that is filed and returned to the corporation pursuant to Iowa Code section 490.125(2).

~~40.1(5)~~ **40.1(8)** A document delivered by telecopier fax shall be accompanied by a cover sheet that provides the name, address, and telephone number of the filing party, and instructions as to the manner by which the filing fee will be paid. The filing fee may be billed to an account maintained by the filing party pursuant to rule ~~721—2.3(17A)~~ 721—2.3(9,631). The filing fee may be paid by any other means authorized by the secretary of state.

~~40.1(6)~~ If a telecopier is used to deliver a document that is subject to the multiple copy requirement of Iowa Code section 490.130, the additional copy or copies shall be delivered by telecopier contemporaneously with the copy of the document to be filed.

~~40.1(7)~~ **40.1(9)** A document delivered by telecopier fax for filing may be rejected if the print quality of the document is deemed by agency personnel to be unacceptable for microfilming scanning purposes. The secretary of state will notify the filing party by telephone, email, or regular mail of the rejection of a document pursuant to this subrule. The secretary of state will accept for filing the original copy of the document, effective on the date of the transmission by telecopier fax, if the original document is received in the office of the secretary of state within ten days of date of the notification of the rejection.

This rule is intended to implement Iowa Code ~~chapter~~ chapters 9 and 490.

ITEM 35. Rescind rule ~~721—40.2(490,499,504A)~~.

ITEM 36. Renumber rules ~~721—40.3(487,490,504A)~~ to ~~721—40.9(488,489,490,504)~~ as ~~721—40.2(487,490,504A)~~ to ~~721—40.8(488,489,490,504)~~.

ITEM 37. Amend renumbered rule ~~721—40.2(487,490,504A)~~ as follows:

~~721—40.2(487,490,504A)~~ 486A,488,489,490,496C,499,501,501A,504 **Names distinguishable upon corporate records.**

40.2(1) Except as provided in these rules, a name is considered distinguishable upon the records of the secretary of state if it contains one or more different letters or numerals, or if it contains a different sequence of letters or numerals. A single space used to divide a sequence of letters or numerals into separate words is considered to be a letter for the purpose of this subrule. Differences between singular and plural forms of words are distinguishable. Differences between numerals, Roman numerals, and words representing numerals are distinguishable. The following characters are considered as letters for the purpose of this subrule: \$ (dollar sign); + (plus sign); % (percent sign); ¢ (cent sign).

40.2(2) The following words and abbreviations, when positioned as the last word or abbreviation in the ~~corporate~~ business entity name, are not considered in determining whether a name is distinguishable upon the records of the secretary of state:

- ~~1. a.~~ Corporation
- ~~2. b.~~ Company
- ~~3. c.~~ Incorporated
- ~~4. d.~~ Limited
- ~~5. Corp.~~
- ~~6. Co.~~
- ~~7. Inc.~~
- ~~8. Ltd.~~

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- e. Benefit Corporation
- f. Cooperative
- g. Limited Partnership
- h. Limited Liability Partnership
- i. Registered Limited Liability Partnership
- j. Limited Liability Limited Partnership
- k. Professional Corporation
- l. Limited Company
- m. Limited Liability Company
- n. Professional Limited Liability Company
- o. Any abbreviation of any of the above

~~40.2(3)~~ The presence or absence of the words “limited partnership,” or the abbreviation “L.P.” in any limited partnership name, when positioned at the end of the name, is not considered in determining whether a name “protected series” or the abbreviation “PS” in the name of a protected series, when such words or abbreviation is meant to comply with Iowa Code section 489.14202(2) “b,” is not considered in determining whether the name of a protected series is distinguishable upon the records of the secretary of state.

~~40.2(4)~~ The presence or absence of the words “professional corporation” or the abbreviation “P.C.” in the name of any professional corporation, when positioned at the end of the name, is not considered in determining whether a name is distinguishable upon the records of the secretary of state.

~~40.2(5)~~ The presence or absence of the words “registered limited liability partnership,” or the abbreviation “L.L.P.” in any limited liability partnership name, when positioned at the end of the name, is not considered in determining whether a name is distinguishable upon the records of the secretary of state.

~~40.2(6)~~ The presence or absence of the words “limited liability company,” or the abbreviation “L.L.C.” or “L.C.” in any limited liability company name, when positioned at the end of the name, is not considered in determining whether a name is distinguishable upon the records of the secretary of state.

~~40.2(7) to 40.2(10)~~ Reserved.

~~40.2(11)~~ 40.2(4) Differences in punctuation and special characters are not considered in determining whether a name is distinguishable upon the records of the secretary of state. Punctuation and special characters include, but are not limited to:

' (apostrophe)	[(left bracket)
] (right bracket)	: (colon)
, (comma)	— (dash)
- (hyphen)	! (exclamation point)
((left parenthesis)) (right parenthesis)
. (period)	? (question mark)
' (single quote mark)	” (double quote mark)
; (semicolon)	/ (slash)
* (asterisk)	@ (at sign)
\ (back slash)	{ (left brace)
} (right brace)	^ (caret)
= (equal sign)	> (greater than sign)
< (less than sign)	# (number sign)
~ (tilde)	_ (underline)

~~40.2(12)~~ Reserved.

~~40.2(13)~~ 40.2(5) Differences in capitalization are not considered in determining whether a name is distinguishable upon the records of the secretary of state.

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~~40.2(14)~~ **40.2(6)** Differences between an ampersand (&) and the word “and” are not considered in determining whether a name is distinguishable upon the records of the secretary of state.

~~40.2(15)~~ Reserved.

~~40.2(16)~~ **40.2(7)** In determining whether a name is distinguishable upon the records of the secretary of state, names found in the following records will not be considered:

- ~~1.~~ a. Fictitious names.
- ~~2.~~ b. Assumed names of nonprofit corporations.
- ~~3.~~ c. Names of corporations (profit or nonprofit) whose certificates of incorporation have been canceled.
- ~~4.~~ d. Names of corporations (profit or nonprofit) whose certificates of authority or certificates of registration have been revoked.
- ~~5.~~ e. Expired or terminated assumed names.
- ~~6.~~ f. Expired name reservations.
- ~~7.~~ g. Expired name registrations.

This rule is intended to implement Iowa Code sections ~~487.102(4), 490.401, 504A.6, and 504A.67~~ 486A.1002, 488.108, 489.108, 490.401, 496C.5, 499.4, 501.104, 501A.301, and 504.401.

ITEM 38. Amend renumbered rule 721—~~40.3(490,491,496C,497,498,499,504A)~~ as follows:

721—40.3(490 489,491,496C,497,498,499,504A 501,501A,504) Payment and refund of fees.

40.3(1) The office of secretary of state requires a payment of all fees in full at the time of filing of any corporate document or request for copies.

40.3(2) Filing under any of the ~~corporation or cooperative~~ business entity chapters may be effected only upon the receipt of the correct filing fee. Failure to include the filing fee or partial payment of the filing fee will result in the return of the filing to the sender with instructions to include the correct filing fee.

40.3(3) In the event that a filing fee overpayment is made, the amount in excess of the correct filing fee shall be returned to the filing party. No adjustment is required if the amount of overpayment is one dollar or less.

40.3(4) This subrule implements the pilot project authorized by 2000 Iowa Acts, House File 2545, section 32, for fees required by Iowa Code section ~~490.122, subsection 1, paragraphs “a” and “s.”~~ 490.122(1) “a” and “v.”

a. The secretary of state may refund payment of the corporate filing fees required pursuant to the provisions of Iowa Code section ~~490.122, subsection 1, paragraphs “a” and “s.”~~ 490.122(1) “a” and “v.” if, within five business days from the time the corporate filing is received and date stamped, the entity has not been entered on the records of the secretary of state.

b. To receive a refund under this subrule, the ~~corporate~~ business entity must make a written request with the business services division of the secretary of state’s office. The written request must specify the reason(s) for the refund and provide evidence of entitlement to the refund.

c. The filing fee shall not be refunded if the corporate filing fails to satisfy all of the filing requirements of Iowa Code chapter 490.

d. The decision of the secretary of state not to issue a refund under this subrule is final and not subject to review pursuant to the provisions of the Iowa administrative procedure Act.

40.3(5) This subrule implements the pilot project authorized by 2000 Iowa Acts, House File 2545, section 32, for fees required by Iowa Code section ~~504A.85, subsections 1 and 9.~~ 504.113(1) “a” and “s.”

a. The secretary of state may refund payment of the corporate filing fees required pursuant to the provisions of Iowa Code section ~~504A.85, subsections 1 and 9,~~ 504.113(1) “a” and “s.” if, within five business days from the time the corporate filing is received and date stamped, the entity has not been entered on the records of the secretary of state.

b. To receive a refund under this subrule, the corporate entity must make a written request with the business services division of the secretary of state’s office. The written request must specify the reason(s) for the refund and provide evidence of entitlement to the refund.

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c. The filing fee shall not be refunded if the corporate filing fails to satisfy all of the filing requirements of Iowa Code chapter ~~504A~~ 504.

d. The decision of the secretary of state not to issue a refund under this subrule is final and not subject to review pursuant to the provisions of the Iowa administrative procedure Act.

ITEM 39. Amend renumbered rule 721—40.4(491,496A,499,504A,548) as follows:

721—40.4(~~491,496A,499,504A,548~~ 486A,488,489,490,499,501,501A,504) Document to county recorder.

40.4(1) Any corporate document that is required by law to be filed in the office of the county recorder will be forwarded directly to the office of the county recorder in the county where the corporation’s registered office is located.

40.4(2) Reserved.

ITEM 40. Amend renumbered rule 721—40.5(548) as follows:

721—40.5(548) Registration and protection of marks.

40.5(1) Classification. The following general classes of goods and services are established, but do not limit or extend the applicant’s or registrant’s rights, and a single application for registration of a mark may include any or all goods upon which, or services with which, the mark is actually being used comprised in a single class, but in no event shall a single application include goods or services upon which the mark is being used which fall within different classes of goods or services.

The said classes are as follows:

GOODS

Class	Title
1	Raw or partly prepared materials
2	Receptacles
3	Baggage, animal equipments, portfolio ₂ and pocketbooks
4	Abrasives and polishing materials
5	Adhesives
6	Chemicals and chemical compositions
7	Cordage
8	Smokers’ articles, not including tobacco products
9	Explosives, firearms, equipments ₂ and projectiles
10	Fertilizers
11	Inks and inking materials
12	Construction materials
13	Hardware ₂ and plumbing ₂ and steam-fitting supplies
14	Metals and metal castings and forgings
15	Oils and greases
16	Paints and painters’ materials
17	Tobacco products
18	Medicines and pharmaceutical preparations
19	Vehicles
20	Linoleum and oiled cloth
21	Electrical apparatus, machines ₂ and supplies
22	Games, toys ₂ and sporting goods
23	Cutlery, machinery ₂ and tools, and parts thereof
24	Laundry appliances and machines

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25	Locks and safes
26	Measuring and scientific appliances
27	Horological <u>Clocks, watches, and other horological instruments</u>
28	Jewelry and precious-metal ware
29	Brooms, brushes, and dusters
30	Crockery, earthenware, and porcelain
31	Filters and refrigerators
32	Furniture and upholstery
33	Glassware
34	Heating, lighting, and ventilating apparatus
35	Belting, hose, machinery packing, and nonmetallic tires
36	Musical instruments and supplies
37	Paper and stationery
38	Prints and publications
39	Clothing
40	Fancy goods, furnishings, and notions
41	Canes, parasols, and umbrellas
42	Knitted, netted, and textile fabrics, and substitutes thereof
43	Thread and yarn
44	Dental, medical, and surgical appliances
45	Soft drinks and carbonated waters
46	Foods and ingredients of foods
47	Wines
48	Malt beverages and liquors
49	Distilled alcoholic liquors
50	Merchandise not otherwise classified
51 <u>50</u>	Cosmetics and toilet preparations
52 <u>51</u>	Detergents and soaps
<u>52</u>	<u>Digital products and software applications</u>
<u>53</u>	<u>Goods not otherwise classified</u>

SERVICES

Class	Title
100	<u>Miscellaneous Services not otherwise classified</u>
101	Advertising and business
102	Insurance and financial
103	Construction, <u>maintenance</u> , and repair
104	Communication
105	Transportation and storage
106	Material treatment, <u>recycling</u> , and <u>waste disposal</u>
107	Education and entertainment

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<u>108</u>	<u>Software as a service</u>
<u>109</u>	<u>Medical</u>
<u>110</u>	<u>Hair and cosmetic</u>
<u>111</u>	<u>Restaurant and bar</u>
<u>112</u>	<u>Real estate sales and property management</u>
<u>113</u>	<u>Retail sales</u>

40.5(2) No change.

40.5(3) *Incomplete or defective applications.* An application will not be filed unless the application and accompanying facsimiles or specimens are in proper form, comply with the statutory requirements and are accompanied by the statutory fee established by rule. Specimens which are metal need not be submitted, a facsimile being preferable in order to avoid filing problems. Documents not filed will be returned with a statement of the reasons therefor.

40.5(4) *Registration dates.* The registration date is the date on which the mark is actually posted in the registration indices of the registration application is stamped received by the office of the secretary of state, if, after the application has been examined and found acceptable, it is allowed for registration.

40.5(5) to 40.5(8) No change.

40.5(9) *Conflicts.* Whenever application is made for registration of a mark or trade name which so resembles a mark registered in this state or a mark previously used in this state by another and not abandoned, so as to be likely, when applied to the goods or services of the applicant, to cause confusion or mistake or to deceive, a conflict shall be declared to exist and registration denied.

40.5(10) to 40.5(12) No change.

ITEM 41. Amend renumbered rule 721—40.6(80GA,SF2274) as follows:

721—40.6(80GA,SF2274 504) Revised nonprofit corporation Act fees. The following are the fees for the revised nonprofit corporation Act, 2004 Iowa Acts, Senate File 2274 Iowa Code section 504.113.

40.6(1) The secretary shall collect the following fee when the documents described below are delivered to the secretary's office for filing.

Articles of incorporation	\$20
Application for use of indistinguishable name	\$5
Application for reserved name	\$10
Notice of transfer of reserved name	\$10
Application for registered name	\$2 per month or part thereof
Application for renewal of registered name	\$20
Corporation's statement of change of registered agent or registered office or both	No Fee
Agent's statement of change of registered office for each affected corporation not to exceed a total of	No Fee
Agent's statement of resignation	No Fee
Amendment of articles of incorporation	\$10
Restatement of articles of incorporation with amendments	\$20
Articles of merger	\$20
Articles of dissolution	\$5
Articles of revocation of dissolution	\$5
Certificate of administrative dissolution	No Fee
Application for reinstatement following	

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administrative dissolution	\$5
Certificate of reinstatement	No Fee
Certificate of judicial dissolution	No Fee
Application for certificate of authority	\$25
Application for amended certificate of authority	\$25
Application for certificate of withdrawal	\$5
Certificate of revocation of authority to transact business	No Fee
Biennial report	No Fee
Articles of correction	\$5
Application for certificate of existence or authorization	\$5
Any other document required or permitted by the Act	\$5

40.6(2) The secretary of state shall collect a fee of \$5 each time process is served on the secretary under this chapter.

40.6(3) The secretary of state shall collect the following fees for copying and certifying the copy of any filed document relating to a domestic or foreign corporation:

- a. \$1 per page for copying.
- b. \$5 per page for the certificate.

ITEM 42. Amend renumbered rule 721—40.7(488,489,490) as follows:

721—40.7(488,489,490) Biennial reports. The secretary of state shall collect the following fees at the time the documents described in this rule are delivered to the secretary for filing.

40.7(1) A limited partnership or foreign limited partnership authorized to transact business in this state shall deliver to the secretary of state for filing a biennial report that meets the requirements of Iowa Code section 488.210.

a. The fee for filing and indexing a biennial report filed on paper or in a paper-based format is \$45. This fee may be provided in the form of credit card, cash, personal check, cashier's check, ~~or~~ money order, ~~or~~ by secretary of state charge account.

b. The fee for an electronic filing through the secretary of state ~~Internet~~ website is \$30. This fee must be paid by credit card or secretary of state charge account.

40.7(2) A limited liability company or a foreign limited liability company authorized to transact business in this state shall deliver to the secretary of state for filing a biennial report that meets the requirements of Iowa Code section 489.209.

a. The fee for filing and indexing a biennial report filed on paper or in a paper-based format is \$45. This fee may be provided in the form of credit card, cash, personal check, cashier's check, ~~or~~ money order, ~~or~~ by secretary of state charge account.

b. The fee for an electronic filing through the secretary of state ~~Internet~~ website is \$30. This fee must be paid by credit card or secretary of state charge account.

ITEM 43. Amend renumbered rule 721—40.8(488,489,490,504) as follows:

721—40.8(488,489,490,504) Online filing requirements. The following requirements apply to the electronic filing of documents and the certification of electronic documents. This rule applies to documents filed in conjunction with the filing requirements in Iowa Code chapters 488, 489, 490, and 504.

40.8(1) No change.

40.8(2) For filings requiring an online account, an applicant must follow the terms and conditions on the secretary of state's ~~Internet~~ website for each electronic filing.

40.8(3) No change.

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40.8(4) Documents filed electronically shall be accompanied by the appropriate fee. This fee must be paid by check, credit card, or secretary of state charge account.

ITEM 44. Amend **721—Chapter 40**, implementation sentence, as follows:

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

ITEM 45. Renumber rule **721—42.4(9A,17A)** as **721—42.2(9A,17A)**.

ITEM 46. Amend renumbered rule 721—42.2(9A,17A) as follows:

721—42.2(9A,17A) General information. Further information pertaining to the Registration of Athlete Agents Act and all application forms may be obtained by contacting the Secretary of State, Corporations Business Services Division, Lucas State Office Building, Des Moines, Iowa 50319, (515)281-5204 during regular office hours, 8 a.m. to 4:30 p.m. Monday through Friday except legal holidays.

ITEM 47. Amend rule 721—43.1(9B) as follows:

721—43.1(9B) Certificate of notarial acts. A notarial act shall be evidenced by a certificate signed and dated by a notarial officer, be executed contemporaneously with the performance of the notarial act for which the certificate applies, and not be completed until the notarial act has been performed. The certificate shall include all of the information required by Iowa Code section 9B.15(1). A certificate of a notarial act is sufficient if it meets the requirements set out in Iowa Code section 9B.15(3). A certificate of a notarial act performed under Iowa Code section 9B.14A as enacted by 2019 Iowa Acts, chapter 44, section 6, must also meet the requirements of Iowa Code section 9B.14A(4) as enacted by 2019 Iowa Acts, chapter 44, section 6.

ITEM 48. Amend rule 721—43.2(9B) as follows:

721—43.2(9B) Short form certificates. Short form certificates of notarial acts may be used provided the certificates comply with the provisions of Iowa Code sections 9B.15 and 9B.16. For purposes of this rule, a “record” and an “instrument” have the same meaning and effect. A short form certificate of a notarial act performed under Iowa Code section 9B.14A as enacted by 2019 Iowa Acts, chapter 44, section 6, must meet the requirements of Iowa Code section 9B.14A(5) as enacted by 2019 Iowa Acts, chapter 44, section 6.

ITEM 49. Amend rule 721—43.5(9B) as follows:

721—43.5(9B) Commission as notary public. An individual applying to the secretary of state for a commission as a notary public shall comply with the requirements and qualifications of Iowa Code section 9B.21.

43.5(1) Application. The applicant shall complete and file with the secretary of state an Application for Appointment as Notary Public. The affirmation section on an Application for Appointment as Notary Public shall constitute an executed oath of office as required by Iowa Code section 9B.21(3). An individual who wishes to perform notarial acts for remotely located individuals shall also complete and file with the secretary of state an additional application containing information indicating that the applicant meets the additional training and technology requirements of Iowa Code section 9B.14A as enacted by 2019 Iowa Acts, chapter 44, section 6, and this chapter, as well as any additional information the secretary of state may require.

43.5(2) Reapproval. A notary public’s approval to perform notarial acts for remotely located individuals shall expire on the same date as the individual’s notary public commission. Two months preceding the expiration of approval, the secretary of state shall notify the notary public of the expiration date and furnish an application for reapproval. The secretary of state may provide for combining its reappointment and reapproval forms.

43.5(3) Training.

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a. A notary public who wishes to begin performing notarial acts under Iowa Code section 9B.14A as enacted by 2019 Iowa Acts, chapter 44, section 6, shall, within the six-month period immediately preceding the first performance of such an act, satisfactorily complete a training course approved by the secretary of state concerning the requirements and methods for performing notarial acts for remotely located individuals and shall provide satisfactory proof to the secretary of state that the applicant has completed the course.

b. An applicant for reappointment as a notary public who currently holds a notary public commission, who wishes to continue performing notarial acts under Iowa Code section 9B.14A as enacted by 2019 Iowa Acts, chapter 44, section 6, and who has satisfactorily completed the initial training course required by paragraph 43.5(3)“*a*” at least one time prior to the 12-month period immediately preceding application for reappointment shall, within the 6-month period immediately preceding the deadline for application for reappointment, satisfactorily complete an update course approved by the secretary of state concerning the requirements and methods for performing notarial acts for remotely located individuals and shall provide satisfactory proof to the secretary of state that the applicant has completed the course.

ITEM 50. Amend rule 721—43.7(9B) as follows:

721—43.7(9B) Protection of recording and personally identifiable information. A notary public shall protect from unauthorized access the recording of a notarial act pursuant to Iowa Code section 9B.14A(3)“*c*” as enacted by 2019 Iowa Acts, chapter 44, section 6, and any “personally identifiable information” as defined in Iowa Code section 9B.14C(1) as enacted by 2019 Iowa Acts, chapter 44, section 8, disclosed during the performance of an electronic notarial act using audiovisual communications, except as permitted pursuant to Iowa Code sections 9B.14C(2) and 9B.14C(3) as enacted by 2019 Iowa Acts, chapter 44, section 8.

ITEM 51. Amend rule 721—43.9(9B) as follows:

721—43.9(9B) Standards for communication technology and identity proofing for notarial acts performed for remotely located individuals.

43.9(1) A notary public may not perform a notarial act for a remotely located individual unless the technology identified by the notary public pursuant to Iowa Code section 9B.14A(7) as enacted by 2019 Iowa Acts, chapter 44, section 6, satisfies all of the following:

- a.* to *c.* No change.
- d.* Provides sufficient captured image resolution for identity proofing performed in accordance with Iowa Code section 9B.14A(3) as enacted by 2019 Iowa Acts, chapter 44, section 6.
- e.* No change.
- f.* Provides for the recording of the electronic notarial act in compliance with this chapter and Iowa Code section 9B.14A as enacted by 2019 Iowa Acts, chapter 44, section 6, in sufficient quality to ensure the verification of the electronic notarial act.
- g.* to *j.* No change.
- k.* Provides security measures the secretary of state deems reasonable to prevent unauthorized access to all of the following:

(1) to (5) No change.

43.9(2) Identity proofing and credential analysis must be performed by a third-party credential service provider whose methods and standards are substantially similar to those defined in the most recent edition of the National Institute of Standards and Technology’s Digital Identity Guidelines, and that has provided evidence to the notary public of the ability to satisfy the following requirements:

- a.* and *b.* No change.
- c.* Credential analysis shall, at a minimum, do all of the following:
 - (1) Use automated software processes to aid the notary public in verifying the identity of a principal or any credible witness;
 - (2) and (3) No change.

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d. No change.

43.9(3) Upon change of any of the technology identified by the notary public pursuant to Iowa Code section 9B.14A(7) as enacted by 2019 Iowa Acts, chapter 44, section 6, which affects compliance with the requirements of Iowa Code chapter 9B or this chapter, the provider of the technology shall immediately notify the secretary of state and all Iowa notaries public using its technology of the change. Information that qualifies as trade secret under Iowa law shall be kept confidential in accordance with Iowa Code section 22.7(3). It is the responsibility of the provider to specify to the secretary of state the information it believes falls within the definition of “trade secret” under Iowa Code section 550.2(4) and other applicable law.

ITEM 52. Amend rule 721—43.10(9B) as follows:

721—43.10(9B) Providers of communication technology.

43.10(1) Provider requirements. A notary public authorized to perform notarial acts for remotely located individuals may only use a provider of communication technology for the audiovisual recording of electronic notarial acts subject to the provisions of this chapter and Iowa Code sections 9B.14A as enacted by 2019 Iowa Acts, chapter 44, section 6, and 9B.14B as enacted by 2019 Iowa Acts, chapter 44, section 7, if the provider:

- a. Has registered with and been approved by the secretary of state in accordance with this chapter;
- b. Allows the remote notary public sole control of the recording of the electronic notarial act using audiovisual communication, subject to the authorized access granted by the notary; and
- c. Provides the notary with access to the recording of the electronic notarial act using audiovisual communication pursuant to this chapter.

43.10(2) Backup strategy requirement—release of records to secretary of state.

a. The secretary of state may not approve a provider of communication technology as defined in Iowa Code section 9B.14A(1) “a” as enacted by 2019 Iowa Acts, chapter 44, section 6, unless the provider uses a backup strategy that is acceptable to the secretary of state for use as a record keeper for any record that is related to a remote notarial act.

b. If the provider of communication technology and the owner of the backup strategy described in paragraph 43.10(2) “a” are the same entity, in the event that the provider ceases business operations, the provider shall notify the secretary of state in advance of such cessation of business operations and, at the secretary of state’s request, shall release to the secretary of state any record described in paragraph 43.10(2) “a.”

c. If the provider of communication technology and the owner of the backup strategy described in paragraph 43.10(2) “a” are separate entities, the provider shall sign an agreement with the owner of the backup strategy that, in the event that the provider or the owner ceases business operations, the entity ceasing business operations shall notify the other entity and the secretary of state in advance of such cessation of business operations, and, at the secretary of state’s request, the owner of the backup strategy shall release to the secretary of state any record described in paragraph 43.10(2) “a.”

43.10(3) Protection of recording and personally identifiable information. A provider of communication technology shall protect from unauthorized access the recording of a notarial act pursuant to Iowa Code section 9B.14A(3) “c” as enacted by 2019 Iowa Acts, chapter 44, section 6, and any “personally identifiable information” as defined in Iowa Code section 9B.14C(1) as enacted by 2019 Iowa Acts, chapter 44, section 8, disclosed during the performance of an electronic notarial act using audiovisual communications.

ITEM 53. Amend paragraph **43.11(1)“a”** as follows:

a. A provider of communication technology that wishes to apply for approval by the secretary of state for use of its technology by Iowa notaries public to perform notarial acts under Iowa Code section 9B.14A as enacted by 2019 Iowa Acts, chapter 44, section 6, shall submit a registration electronically to the secretary of state, which shall include:

- (1) to (11) No change.

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ITEM 54. Amend subrule 45.1(1) as follows:

45.1(1) Scope. This chapter applies to the creation and administration of a mechanics' notice and lien registry under Iowa Code chapter 572. All filed mechanics' liens ~~filed on or after January 1, 2013,~~ must be posted in the office of the administrator in accordance with these rules. ~~The residential notice provisions of these rules apply to labor performed and materials supplied on or after January 1, 2013.~~

Mechanics' liens filed prior to January 1, 2013, shall remain with the clerk of the district court of the county in which the building, land, or improvement charged with the lien is situated.

Rules 721—45.4(572) and 721—45.5(572) apply only to residential construction. All other rules in this chapter apply to both residential and commercial construction.

ITEM 55. Amend rule 721—45.2(572) as follows:

721—45.2(572) Creation of mechanics' notice and lien registry. The administrator shall create and administer a mechanics' notice and lien registry, hereafter known as the MNLN.

45.2(1) Access to MNLN by the general public. The MNLN shall be accessible to the general public through the administrator's ~~Web site~~ website at www.sos.iowa.gov/mnlr. A notice, lien or any other document posted is immediately accessible to the general public.

45.2(2) MNLN searchable by index. The MNLN shall be searchable by the following indexes:

- a. Owner name.
- b. General contractor name.
- c. MNLN number.
- d. Property address.
- e. Legal description.
- f. Tax parcel identification number.
- g. County.

45.2(3) Acknowledgment of receipt. The administrator shall provide a receipt acknowledging submission of a notice if the submission of information is by U.S. mail, facsimile transmission, personal delivery, or courier delivery, or acknowledging submission of a lien if the submission of information is by U.S. mail. The acknowledgment shall be sent to the ~~e-mail~~ email address provided by the person submitting the required information to post a notice or lien.

45.2(4) MNLN user registration. To post information on the MNLN ~~Internet Web site~~ website, the person must register as a user on the MNLN. Procedures for MNLN user registration and allowed use of the MNLN shall be posted on the administrator's ~~Web site~~ website.

ITEM 56. Amend rule 721—45.3(572) as follows:

721—45.3(572) Administrator identification. In addition to the promulgation of these rules, the administrator will disseminate the administrator's location, mailing address, telephone and facsimile numbers, and the administrator's ~~Internet website~~ and other electronic "~~addresses~~" addresses through usual and customary means.

ITEM 57. Amend rule 721—45.4(572) as follows:

721—45.4(572) Posting of notice of commencement of work.

45.4(1) Posting by general contractor. A general contractor for residential construction shall post a notice of commencement of work to the MNLN within ten days of commencement of work, or the general contractor is not entitled to a lien or remedies provided in Iowa Code chapter 572.

45.4(2) Information in notice of commencement of work. The information provided shall, at a minimum, include:

- a. The name and address of the owner.
- b. The name, address, and telephone number of the general contractor or owner-builder.
- c. The address of the property or a description of the location of the property if the property cannot be reasonably identified by an address.
- d. The legal description of the property.

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- e. The date work commenced.
- f. The tax parcel identification number.
- g. The county or counties in which the building, land, or improvement to be charged with the lien is situated.
- h. The ~~e-mail~~ email address of the person posting or submitting the notice of commencement of work or the ~~e-mail~~ email address of another individual or entity designated to receive electronic correspondence on behalf of this person.

45.4(3) Commencement of work owner notice. At the time a notice of commencement of work is posted on the MNLR, the administrator shall mail a written owner notice to the owner's address. If the owner's address is different than the property address, a copy of the notice shall also be sent to the property address, addressed to the owner.

a. The owner notice shall be in boldface type and of a minimum size of ten points and contain the following language:

"Persons or companies furnishing labor or materials for the improvement of real property may enforce a lien upon the improved property if they are not paid for their contributions, even if the parties have no direct contractual relationship with the owner. The mechanics' notice and lien registry provides a listing of all persons or companies furnishing labor or materials who have posted a lien or who may post a lien upon the improved property. If the person or company has posted its notice or lien to the mechanics' notice and lien registry, you may be required to pay the person or company even if you have paid the general contractor the full amount due. Therefore, check the mechanics' notice and lien registry ~~internet~~ website for information about the property including persons or companies furnishing labor or materials before paying your general contractor. In addition, when making payment to your general contractor, it is important to obtain lien waivers from your general contractor and from persons or companies registered as furnishing labor or materials to your property. The information in the mechanics' notice and lien registry is posted on the ~~internet~~ website of the mechanics' notice and lien registry."

b. The owner notice shall include the MNLR ~~Internet Web site~~ website address and MNLR toll-free telephone number.

ITEM 58. Amend rule 721—45.5(572) as follows:

721—45.5(572) Posting of preliminary notice.

45.5(1) No change.

45.5(2) Contents of preliminary notice. The information provided by the subcontractor shall, at a minimum, include:

- a. and b. No change.
- c. The name, address, and telephone number of the subcontractor furnishing the labor, service, equipment, or material.
- d. to i. No change.
- j. The county or counties in which the building, land, or improvement to be charged with the lien is situated.
- k. The ~~e-mail~~ email address of the subcontractor or the ~~e-mail~~ email address of another individual or entity designated to receive electronic correspondence on behalf of the subcontractor.

45.5(3) and 45.5(4) No change.

ITEM 59. Amend rule 721—45.6(572) as follows:

721—45.6(572) Posting of ~~mechanic's~~ mechanics' lien.

45.6(1) and 45.6(2) No change.

45.6(3) ~~Mechanic's~~ Mechanics' lien owner notice. At the time that a lien is posted on the MNLR, the administrator shall mail a copy of the lien to the owner's address. The owner notice shall include the MNLR ~~Internet Web site~~ website address and MNLR toll-free telephone number.

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45.6(4) Identification of lien county or counties. A lien posted to the MNLR under this rule shall be limited to the county or counties in which the building, land, or improvement to be charged with the lien is situated. The county or counties identified on the MNLR ~~Web site~~ website at the time of posting the required notices in rules 721—45.4(572) and 721—45.5(572) shall be the only county or counties in which the building, land, or improvement may be charged with a ~~mechanic's~~ mechanics' lien.

45.6(5) No change.

45.6(6) Additional information for posting of a ~~mechanic's~~ mechanics' lien for commercial property. The person posting the ~~mechanic's~~ mechanics' lien for a commercial property must register as a user with the MNLR and must provide the following additional information:

- a. The name and mailing address of the owner.
- b. The name, address, and telephone number of the general contractor or owner-builder.
- c. The county or counties in which the building, land, or improvement to be charged with the lien is situated.
- d. The ~~e-mail~~ email address of the person posting or submitting the ~~mechanic's~~ mechanics' lien or the ~~e-mail~~ email address of another individual or entity designated to receive electronic correspondence on behalf of the person posting the lien.

ITEM 60. Adopt the following **new** subrule 45.8(3):

45.8(3) Affidavit for release of bond. Upon satisfaction or forfeiture of a mechanics' lien, the owner may release a bond submitted to discharge the lien pursuant to Iowa Code section 572.15 by submitting to the administrator an affidavit for release of bond.

ITEM 61. Amend rule 721—45.11(572) as follows:

721—45.11(572) Nondisclosure of MNLR information. The following information, provided in compliance with this chapter, shall not be viewed as a public record under Iowa Code chapter 22 and shall not be disclosed by the administrator:

1. An ~~e-mail~~ email address.
2. MNLR user account or payment information.

ITEM 62. Amend rule 721—45.12(572) as follows:

721—45.12(572) Obligation to update information. The administrator may use ~~e-mail~~ email for official correspondence with a registered user, except when law requires delivery by U.S. mail. If the registered user wants to receive timely notice by the administrator, it is the obligation of the registered user to update the user's contact information on the MNLR.

ITEM 63. Amend rule 721—45.13(572) as follows:

721—45.13(572) Fees and services.

45.13(1) Fee for posting and mailing. The following fees shall be charged for posting on the MNLR and for the mailing of notices:

- a. The fee for posting a notice of commencement of work using the ~~Internet Web site~~ website is \$7. The fee for posting a notice of commencement of work by submitting the notice to the administrator by U.S. mail, facsimile, personal delivery, or courier delivery is \$10.
- b. The fee for posting a preliminary notice on the MNLR using the ~~Internet Web site~~ website is \$7. The fee for posting a preliminary notice by submitting the notice to the administrator by U.S. mail, facsimile, personal delivery, or courier delivery is \$10.
- c. The fee for posting a ~~mechanic's~~ mechanics' lien using the ~~Internet Web site~~ website is \$30. The fee for posting a ~~mechanic's~~ mechanics' lien by submitting the lien to the administrator by U.S. mail is \$40.
- d. The fee for mailing a copy of the demand for acknowledgment is \$5 per party's mailing address.
- e. The fee for mailing a copy of the demand to commence action is \$5 per party's mailing address.
- f. The fee for posting a correction statement is \$5 to mail a new owner notice.

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45.13(2) Searching the MNLN. A search of the MNLN by index list is available at no cost via the administrator's ~~Web site~~ website. Any person may search the MNLN without registering as an MNLN user. When a search of the MNLN is performed by the administrator, the following fees apply:

a. The fee for an MNLN search request is \$5. The search will only be performed if an MNLN number is provided by the requester. Other than by MNLN number, no other search will be performed by the administrator. The request may be made by verbal communication, on paper, by facsimile, or by ~~e-mail~~ email. The search provides the requester with a copy of the summary of postings for the provided MNLN number, and an estimate of the cost to obtain a paper copy of the documents listed on the summary of postings.

b. The fee for a paper copy of a document posted on the MNLN is:

- (1) \$1 per page, delivered by U.S. mail.
- (2) \$2 per page, delivered by facsimile machine.

Documents will not be delivered via ~~e-mail~~ email.

45.13(3) Public records services. Public records services are provided on a nondiscriminatory basis to any member of the public on the terms described in these rules. The following fees shall be charged for obtaining copies of MNLN documents and copies of data from the MNLN information management system, as generated and provided by the administrator, by the following methods:

a. Paper copies of individual documents. The requester must provide the MNLN document number.

- (1) U.S. mail delivery — \$1 per page.
- (2) Facsimile delivery — \$2 per page.

Documents will not be delivered via ~~e-mail~~ email.

b. Data download.

~~(1) Subscription service that allows a subscriber to electronically receive data fields via a spreadsheet format (unlimited downloads): \$500 annual fee, renewable January 1 each year. For subscribers, bulk copies of PDF images of postings may be purchased for 4 cents per document, delivered to the subscriber on a computer disk.~~

~~(2) One-time full extract of data for a calendar year via download: up to \$1,000 per year. In addition to the purchase of the download, a requester for full data extract may purchase a copy of all PDF images of postings for the calendar year for 4 cents per document, delivered to the requester on a computer disk.~~

45.13(4) to 45.13(6) No change.

ITEM 64. Amend rule 721—45.14(572) as follows:

721—45.14(572) Grounds for refusal of a posting or submission. A posting or submission may be refused by the administrator on the following grounds:

1. to 5. No change.

Additional grounds for the administrator's refusal to accept an MNLN document for posting may be established by policy. The policy shall be noticed to the public by the posting of the policy on the MNLN ~~Web site~~ website.

ITEM 65. Amend rule 721—45.15(572) as follows:

721—45.15(572) Posting of a filing office statement, correction statement, or withdrawal statement.

45.15(1) Filing office statement. The administrator may post a filing office statement to correct information that was incorrectly transcribed from a paper submission.

45.15(2) Correction statement. A correction statement for a commencement of work or a preliminary notice is an electronic posting by a registered MNLN user. A correction statement does not allow for a change in the county or counties where the building, land or improvement to be charged with the lien is situated; in the date of the commencement of work; or in the date that material was first furnished or labor was first performed by the subcontractor.

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45.15(3) No change.

45.15(4) *Notice of filing office statement, correction statement, or withdrawal statement to registered users.* At the time of the posting of a filing office statement, a correction statement, or a withdrawal statement, a notice will be sent by ~~e-mail~~ email to all registered users, except the administrator, who have posted to the MNLR number.

ITEM 66. Amend rule 721—45.16(572) as follows:

721—45.16(572) Assignment of date and time stamp and MNLR number.

45.16(1) *Method and time of posting.*

a. For a notice of commencement of work or preliminary notice, the posting shall be date- and time-stamped as follows:

(1) If posted electronically on the MNLR, the time of posting shall be upon posting of all required information and payment of the required fees.

(2) If the required information and fee are submitted by U.S. mail or facsimile transmission to the filing office, the administrator shall post to the MNLR within three business days of receipt.

~~(3) If the required information and fee are submitted by facsimile transmission to the filing office, the administrator shall post to the MNLR within three business days of receipt.~~

(4) (3) If the required information and fee are submitted by personal delivery or courier delivery to the filing office's street address, the administrator shall post to the MNLR within three business days of receipt.

b. and *c.* No change.

45.16(2) No change.

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