



# IOWA ADMINISTRATIVE BULLETIN

Published Biweekly

VOLUME XXXVIII  
September 2, 2015

NUMBER 5  
Pages 297 to 380

## CONTENTS IN THIS ISSUE

Pages 307 to 380 include **ARC 2116C** to **ARC 2124C** and **ARC 2126C** to **ARC 2135C**

### AGENDA

Administrative rules review committee . . . . . 301

### ALL AGENCIES

Agency identification numbers . . . . . 305  
Citation of administrative rules . . . . . 299  
Schedule for rule making . . . . . 300

### EDUCATIONAL EXAMINERS BOARD[282]

EDUCATION DEPARTMENT[281]"umbrella"

Notice, Licensure fees—\$4 increase,  
amendments to ch 12 **ARC 2131C** . . . . . 307  
Notice, Background checks for  
applicants, 13.1, 15.7, 16.1, 18.1, 20.3,  
22.1 to 22.3, 22.5, 22.7, 22.8, 22.10,  
23.1, 24.1, 27.2 **ARC 2130C** . . . . . 309  
Filed, Issuance of renewal units for  
licensees serving as cooperating  
teachers, 20.5, 20.6 **ARC 2120C** . . . . . 375  
Filed, One-year, nonrenewable extension  
of authorization, 22.11 **ARC 2121C** . . . . . 376

### EDUCATION DEPARTMENT[281]

Notice, Online learning offered by a  
school district—open enrollment, 15.8  
**ARC 2118C** . . . . . 313

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

Notice, Flood mitigation program, 14.2,  
14.3(2) **ARC 2119C** . . . . . 314

### HUMAN SERVICES DEPARTMENT[441]

Notice, Reimbursement rate increase  
for resource family recruitment and  
retention contractors, child welfare  
emergency service contractors, and  
supervised apartment living foster care  
providers, 150.3(5)"p," 202.9(4)"e"  
**ARC 2124C** . . . . . 316

### INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice, Targeted small business  
certification program—service-disabled  
veterans, 25.1, 25.2(8), 25.4(1)"e"  
**ARC 2122C** . . . . . 317

### IOWA FINANCE AUTHORITY[265]

Notice, Title guaranty division, 9.1 to  
9.22 **ARC 2128C** . . . . . 318  
Notice, Agricultural development  
division, 44.2, 44.4 to 44.7 **ARC 2127C** . . . . . 344

### LABOR SERVICES DIVISION[875]

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

Filed, Child labor, 32.1, 32.2, 32.5, 32.7,  
32.11, 32.12, 32.17 **ARC 2134C** . . . . . 377

### NATURAL RESOURCE COMMISSION[571]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Filed, Concessions—Honey Creek Resort  
State Park exemption, 14.9 **ARC 2133C** . . . . . 379  
Filed Emergency After Notice, Waterfowl  
and coot hunting—season dates, bag  
limits, 91.1, 91.3, 91.6 **ARC 2129C** . . . . . 373

**NATURAL RESOURCES DEPARTMENT[561]**

Notice, Special deer and turkey hunting licenses for nonresident disabled veterans or disabled members of the armed forces, 12.2 to 12.18 **ARC 2132C** ..... 348

**PUBLIC HEALTH DEPARTMENT[641]**

Notice Terminated, Central registry for brain and spinal cord injuries, 21.1 to 21.6 **ARC 2135C** ..... 351

**PUBLIC HEARINGS**

Summarized list ..... 303

**REVENUE DEPARTMENT[701]**

Notice, Excise tax rate on motor and special fuels; biodiesel distribution percentage formula, 67.1, 67.21, 68.2, 68.4, 68.13 **ARC 2123C** ..... 351

**TRANSPORTATION DEPARTMENT[761]**

Notice, Update of uniform rules—rule making, waivers, declaratory orders, 10.1 to 10.3, 11.5(3), 11.8(2), 12.2 **ARC 2117C** ..... 364

Notice, Road fund formulas; distribution committee, 102.1, 102.2, 102.5, 102.6, 102.7(6) **ARC 2126C**..... 367

**USURY**

Notice ..... 370

**UTILITIES DIVISION[199]**

COMMERCE DEPARTMENT[181]“umbrella”

Notice, Renewable energy tax credits, 15.19(1) **ARC 2116C**..... 371

## PREFACE

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

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

The Bulletin may also contain public funds interest rates [12C.6]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)"a"]; and agricultural credit corporation maximum loan rates [535.12].

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

STEPHANIE A. HOFF, Administrative Code Editor

Telephone: (515)281-3355

Fax: (515)281-5534

### CITATION of Administrative Rules

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

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

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

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

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

## Schedule for Rule Making 2015

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

### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
7	Friday, September 11, 2015	September 30, 2015
8	Friday, September 25, 2015	October 14, 2015
9	Friday, October 9, 2015	October 28, 2015

**PLEASE NOTE:**

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

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

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

The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, September 8, 2015, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

NOTE: See also Agenda published in the August 19, 2015, Iowa Administrative Bulletin.

### **EDUCATIONAL EXAMINERS BOARD[282]**

EDUCATION DEPARTMENT[281]"umbrella"

Licensure fees—\$4 increase, amendments to ch 12	Notice	ARC 2131C	9/2/15
Background checks for applicants, 13.1, 15.7, 16.1, 18.1, 20.3, 22.1 to 22.3, 22.5, 22.7, 22.8, 22.10, 23.1, 24.1, 27.2	Notice	ARC 2130C	9/2/15
Issuance of renewal units for licensees serving as cooperating teachers, 20.5, 20.6	Filed	ARC 2120C	9/2/15
One-year, nonrenewable extension of authorization, 22.11	Filed	ARC 2121C	9/2/15

### **EDUCATION DEPARTMENT[281]**

Online learning offered by a school district—open enrollment, 15.8	Notice	ARC 2118C	9/2/15
--	--------	-----------	--------

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

Flood mitigation program, 14.2, 14.3(2)	Notice	ARC 2119C	9/2/15
---	--------	-----------	--------

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

Reimbursement rate increase for resource family recruitment and retention contractors, child welfare emergency service contractors, and supervised apartment living foster care providers, 150.3(5)"p," 202.9(4)"e"	Notice	ARC 2124C	9/2/15
---	--------	-----------	--------

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

Targeted small business certification program—service-disabled veterans, 25.1, 25.2(8), 25.4(1)"e"	Notice	ARC 2122C	9/2/15
---	--------	-----------	--------

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

Title guaranty division, 9.1 to 9.22	Notice	ARC 2128C	9/2/15
Agricultural development division, 44.2, 44.4 to 44.7	Notice	ARC 2127C	9/2/15

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

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

Child labor, 32.1, 32.2, 32.5, 32.7, 32.11, 32.12, 32.17	Filed	ARC 2134C	9/2/15
--	-------	-----------	--------

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

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Concessions—Honey Creek Resort State Park exemption, 14.9	Filed	ARC 2133C	9/2/15
Waterfowl and coot hunting—season dates, bag limits, 91.1, 91.3, 91.6	Filed	Emergency After Notice	ARC 2129C
			9/2/15

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

Special deer and turkey hunting licenses for nonresident disabled veterans or disabled members of the armed forces, 12.2 to 12.18	Notice	ARC 2132C	9/2/15
---	--------	-----------	--------

### **PUBLIC HEALTH DEPARTMENT[641]**

Central registry for brain and spinal cord injuries, 21.1 to 21.6	Notice of Termination	ARC 2135C	9/2/15
---	-----------------------	-----------	--------

### **REVENUE DEPARTMENT[701]**

Excise tax rate on motor and special fuels; biodiesel distribution percentage formula, 67.1, 67.21, 68.2, 68.4, 68.13	Notice	ARC 2123C	9/2/15
--	--------	-----------	--------

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

Update of uniform rules—rule making, waivers, declaratory orders, 10.1 to 10.3, 11.5(3), 11.8(2), 12.2	Notice	ARC 2117C	9/2/15
Road fund formulas; distribution committee, 102.1, 102.2, 102.5, 102.6, 102.7(6)	Notice	ARC 2126C	9/2/15

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

COMMERCE DEPARTMENT[181]"umbrella"

Renewable energy tax credits, 15.19(1)	Notice	ARC 2116C	9/2/15
--	--------	-----------	--------

## ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

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

Senator Mark Chelgren  
819 Hutchinson  
Ottumwa, Iowa 52501

Senator Mark Costello  
37265 Rains Avenue  
Imogene, Iowa 51645

Senator Thomas Courtney  
2609 Clearview  
Burlington, Iowa 52601

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

Senator Pam Jochum  
2368 Jackson Street  
Dubuque, Iowa 52001

Jack Ewing  
**Legal Counsel**  
Capitol  
Des Moines, Iowa 50319  
Telephone (515)281-6048  
Fax (515)281-8451

Representative Lisa Heddens  
2401 Westwind Drive  
Ames, Iowa 50010

Representative Megan Jones  
4470 Highway 71  
Sioux Rapids, Iowa 50585

Representative Rick Olson  
3012 East 31st Court  
Des Moines, Iowa 5031

Representative Dawn Pettengill  
P.O. Box A  
Mt. Auburn, Iowa 52313

Representative Guy Vander Linden  
1610 Carbonado Road  
Oskaloosa, Iowa 52577

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

**ALCOHOLIC BEVERAGES DIVISION[185]**

Tastings; samplings; trade spending, 16.1, 16.7 to 16.9 IAB 8/19/15 <b>ARC 2106C</b>	Division Training Room 1918 S.E. Hulsizer Rd. Ankeny, Iowa	September 11, 2015 10 a.m. (If requested)
---	--	---

**EDUCATIONAL EXAMINERS BOARD[282]**

Licensure fees—\$4 increase, amendments to ch 12 IAB 9/2/15 <b>ARC 2131C</b>	Room B50, Basement Grimes State Office Bldg. Des Moines, Iowa	September 23, 2015 1 p.m.
Background checks for applicants, amendments to chs 13, 15, 16, 18, 22 to 24, 27 IAB 9/2/15 <b>ARC 2130C</b>	Room B50, Basement Grimes State Office Bldg. Des Moines, Iowa	September 23, 2015 1 p.m.

**EDUCATION DEPARTMENT[281]**

Online learning offered by a school district—open enrollment, 15.8 IAB 9/2/15 <b>ARC 2118C</b>	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	September 22, 2015 9 to 10 a.m.
---	---	------------------------------------

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

Flood mitigation program, 14.2, 14.3(2) IAB 9/2/15 <b>ARC 2119C</b>	Cyclone Conference Room, Suite 500 7900 Hickman Rd. Windsor Heights, Iowa	September 22, 2015 11 a.m.
--	---	-------------------------------

**INSURANCE DIVISION[191]**

Authorized methods of delivery of notices of cancellation, nonrenewal or termination, 4.24, 20.80, 30.9, 35.9, 39.33, 40.26 IAB 8/5/15 <b>ARC 2078C</b>	Division Offices, Fourth Floor Two Ruan Center 601 Locust St. Des Moines, Iowa	September 3, 2015 10 a.m.
Rate-filing deadline for crop-hail insurance, 20.8 IAB 8/19/15 <b>ARC 2103C</b>	Division Offices, Fourth Floor Two Ruan Center 601 Locust St. Des Moines, Iowa	September 8, 2015 10 a.m.

**IOWA FINANCE AUTHORITY[265]**

Title guaranty division—reorganization and clarification of rules, 9.1 to 9.22 IAB 9/2/15 <b>ARC 2128C</b>	Presentation Room 2015 Grand Ave. Des Moines, Iowa	September 22, 2015 1 to 2 p.m.
---	--	-----------------------------------

**NATURAL RESOURCES DEPARTMENT[561]**

Special deer and turkey hunting licenses for nonresident disabled veterans and disabled members of the armed forces, 12.2 to 12.18 IAB 9/2/15 <b>ARC 2132C</b>	Conference Room 4E Wallace State Office Bldg. Des Moines, Iowa	September 22, 2015 1 p.m.
---	--	------------------------------

**NURSING BOARD[655]**

Discipline; contested case procedures, amend ch 4; adopt ch 20 IAB 8/19/15 <b>ARC 2109C</b>	Board Office, Suite B 400 S.W. 8th St. Des Moines, Iowa	September 8, 2015 9 a.m.
--	---	-----------------------------

**TRANSPORTATION DEPARTMENT[761]**

Update of uniform rules—rule making, waivers, declaratory orders, 10.1 to 10.3, 11.5(3), 11.8(2), 12.2 IAB 9/2/15 <b>ARC 2117C</b>	South Conference Room, First Floor DOT Administration Bldg. 800 Lincoln Way Ames, Iowa	September 24, 2015 10 a.m. (If requested)
Road fund formulas; distribution committee, 102.1, 102.2, 102.5, 102.6, 102.7(6) IAB 9/2/15 <b>ARC 2126C</b>	South Conference Room, First Floor DOT Administration Bldg. 800 Lincoln Way Ames, Iowa	September 24, 2015 1 p.m. (If requested)

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

Iowa reading corps, ch 11 IAB 8/19/15 <b>ARC 2107C</b>	Main Conference Room 200 E. Grand Ave. Des Moines, Iowa	September 8, 2015 9 to 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]  
AGING, DEPARTMENT ON[17]  
AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]  
    Soil Conservation Division[27]  
ATTORNEY GENERAL[61]  
AUDITOR OF STATE[81]  
BEEF INDUSTRY COUNCIL, IOWA[101]  
BLIND, DEPARTMENT FOR THE[111]  
CAPITAL INVESTMENT BOARD, IOWA[123]  
CITIZENS’ AIDE[141]  
CIVIL RIGHTS COMMISSION[161]  
COMMERCE DEPARTMENT[181]  
    Alcoholic Beverages Division[185]  
    Banking Division[187]  
    Credit Union Division[189]  
    Insurance Division[191]  
    Professional Licensing and Regulation Bureau[193]  
        Accountancy Examining Board[193A]  
        Architectural Examining Board[193B]  
        Engineering and Land Surveying Examining Board[193C]  
        Landscape Architectural Examining Board[193D]  
        Real Estate Commission[193E]  
        Real Estate Appraiser Examining Board[193F]  
        Interior Design Examining Board[193G]  
    Utilities Division[199]  
CORRECTIONS DEPARTMENT[201]  
    Parole Board[205]  
CULTURAL AFFAIRS DEPARTMENT[221]  
    Arts Division[222]  
    Historical Division[223]  
EARLY CHILDHOOD IOWA STATE BOARD[249]  
ECONOMIC DEVELOPMENT AUTHORITY[261]  
    City Development Board[263]  
IOWA FINANCE AUTHORITY[265]  
EDUCATION DEPARTMENT[281]  
    Educational Examiners Board[282]  
    College Student Aid Commission[283]  
    Higher Education Loan Authority[284]  
    Iowa Advance Funding Authority[285]  
    Libraries and Information Services Division[286]  
    Public Broadcasting Division[288]  
    School Budget Review Committee[289]  
EGG COUNCIL, IOWA[301]  
ENERGY INDEPENDENCE, OFFICE OF[350]  
ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]  
EXECUTIVE COUNCIL[361]  
FAIR BOARD[371]  
HUMAN RIGHTS DEPARTMENT[421]  
    Community Action Agencies Division[427]  
    Criminal and Juvenile Justice Planning Division[428]  
    Deaf Services Division[429]  
    Persons With Disabilities Division[431]  
    Latino Affairs Division[433]  
    Status of African-Americans, Division on the[434]  
    Status of Women Division[435]

Status of Iowans of Asian and Pacific Islander Heritage[436]  
HUMAN SERVICES DEPARTMENT[441]  
INSPECTIONS AND APPEALS DEPARTMENT[481]  
    Employment Appeal Board[486]  
    Child Advocacy Board[489]  
    Racing and Gaming Commission[491]  
    State Public Defender[493]  
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]  
IOWA PUBLIC INFORMATION BOARD[497]  
LAW ENFORCEMENT ACADEMY[501]  
LIVESTOCK HEALTH ADVISORY COUNCIL[521]  
LOTTERY AUTHORITY, IOWA[531]  
MANAGEMENT DEPARTMENT[541]  
    Appeal Board, State[543]  
    City Finance Committee[545]  
    County Finance Committee[547]  
NATURAL RESOURCES DEPARTMENT[561]  
    Energy and Geological Resources Division[565]  
    Environmental Protection Commission[567]  
    Natural Resource Commission[571]  
    Preserves, State Advisory Board for[575]  
PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]  
PREVENTION OF DISABILITIES POLICY COUNCIL[597]  
PROPANE EDUCATION AND RESEARCH COUNCIL, IOWA[599]  
PUBLIC DEFENSE DEPARTMENT[601]  
    Military Division[611]  
HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]  
PUBLIC EMPLOYMENT RELATIONS BOARD[621]  
PUBLIC HEALTH DEPARTMENT[641]  
    Professional Licensure Division[645]  
    Dental Board[650]  
    Medicine Board[653]  
    Nursing Board[655]  
    Pharmacy Board[657]  
PUBLIC SAFETY DEPARTMENT[661]  
RECORDS COMMISSION[671]  
REGENTS BOARD[681]  
    Archaeologist[685]  
REVENUE DEPARTMENT[701]  
SECRETARY OF STATE[721]  
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]  
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]  
TRANSPORTATION DEPARTMENT[761]  
TREASURER OF STATE[781]  
TURKEY MARKETING COUNCIL, IOWA[787]  
UNIFORM STATE LAWS COMMISSION[791]  
VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]  
VETERINARY MEDICINE BOARD[811]  
VOLUNTEER SERVICE, IOWA COMMISSION ON[817]  
VOTER REGISTRATION COMMISSION[821]  
WORKFORCE DEVELOPMENT DEPARTMENT[871]  
    Labor Services Division[875]  
    Workers' Compensation Division[876]  
    Workforce Development Board and Workforce Development Center Administration Division[877]

## ARC 2131C

## EDUCATIONAL EXAMINERS BOARD[282]

## Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 272.2(2), the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 12, “Fees,” Iowa Administrative Code.

During the 2015 legislative session, the General Assembly passed 2015 Iowa Acts, House File 658, section 52, which transfers \$600,000 to the Department of Education from the Board of Educational Examiners in order to pay for the “I Have a Plan Iowa” software. The appropriation of these funds will leave the Board with a cash balance of approximately \$550,000 to start fiscal year 2016.

In light of these developments, the Board proposes to increase all licensure fees by \$4. Raising the fees will provide the Board with additional dollars to rebuild the Board’s cash reserves and enhance its revenue stream as the agency anticipates increased expenses that will exceed existing revenue in future fiscal years if revenues are not increased. The last time the Board raised fees was in 2005, when the Board raised typical licensure fees from \$60 to \$85.

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, September 25, 2015. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147; or sent by e-mail to [kim.cunningham@iowa.gov](mailto:kim.cunningham@iowa.gov); or by fax to (515)281-7669.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, September 23, 2015, at 1 p.m. in Room B50, Basement, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, at the above address, or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

This amendment is subject to waiver pursuant to 282—Chapter 6.

After analysis and review of this rule making, there is no anticipated impact on jobs.

This amendment is intended to implement Iowa Code section 272.2(2).

The following amendment is proposed.

Amend **282—Chapter 12** as follows:

CHAPTER 12  
FEES

**282—12.1(272) Issuance of licenses, certificates, authorizations, and statements of professional recognition.** All application and licensure fees are nonrefundable. The fee for the issuance of a license, certificate, statement of professional recognition, or authorization shall be ~~\$85~~ \$89 unless otherwise specified below:

1. Class E emergency license shall be ~~\$150~~ \$154.
2. Paraeducator certificate shall be ~~\$40~~ \$44.

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

3. Behind-the-wheel authorization shall be \$40 \$44.

**282—12.2(272) Fees for the renewal or extension of licenses, certificates, statements of professional recognition, and authorizations.** The fee for the renewal or extension of a license, certificate, statement of professional recognition, or authorization shall be ~~\$85~~ \$89 unless otherwise specified below:

1. The renewal of the paraeducator certificate shall be ~~\$40~~ \$44.
2. The renewal of the behind-the-wheel authorization shall be ~~\$40~~ \$44.
3. A one-year extension for renewal of a coaching authorization shall be ~~\$40~~ \$44.
4. A one-year extension of the initial license shall be ~~\$25~~ \$29. This extension may be issued if the applicant needs one additional year to meet the experience requirement for the standard license, but has met Iowa teaching standards, pursuant to rule 282—20.4(272).
5. A ~~\$25~~ \$29 fee for an extension of the initial administrator license, which may be issued instead of renewing the initial administrator license if the applicant verifies one of the criteria listed in 282—subrule 20.8(2).

**282—12.3(272) Evaluation fee.** Each application from an out-of-state institution for initial licensure shall include, in addition to the basic fee for the issuance of a license, a one-time nonrefundable ~~\$60~~ \$64 evaluation fee. Each application or request for a statement of professional recognition shall include a one-time nonrefundable ~~\$60~~ \$64 evaluation fee.

**282—12.4(272) Adding endorsements.**

**12.4(1) Fee for each added endorsement.** The fee for each additional endorsement to a license following the issuance of the initial license and endorsement(s) shall be ~~\$50~~ \$54. The fee for each additional endorsement added to a paraeducator certificate shall be ~~\$25~~ \$29.

**12.4(2) Fee for transcript review.** Applicants may ask the board of educational examiners to analyze transcripts if the applicant believes all requirements have been met. Applicants who request board of educational examiners transcript analysis shall be assessed a ~~\$60~~ \$64 transcript evaluation fee for each new endorsement requested. This fee shall be in addition to the fee for adding the endorsement.

**282—12.5(272) Duplicate licenses, authorizations, and statements of professional recognition.** The fee for the issuance of a duplicate practitioner's license, certificate, statement of professional recognition, or authorization shall be ~~\$15~~ \$19.

**282—12.6(272) Late fees.**

**12.6(1)** An additional fee of ~~\$25~~ \$29 per calendar month, not to exceed ~~\$150~~ \$174, shall be imposed if an application for renewal or conversion of a Class A, B, or E license or a statement of professional recognition (SPR) is submitted after the date of expiration of a practitioner's license. Waiver of the late fee will be granted only upon a showing of extraordinary circumstances rendering imposition of the fee unreasonable.

**12.6(2)** Failure to hold an endorsement. An additional fee of ~~\$25~~ \$29 per calendar month, not to exceed ~~\$150~~ \$174, shall be imposed if the practitioner holds a valid Iowa license; but does not hold an endorsement for the type of service for which the practitioner is employed.

**12.6(3)** Failure to hold valid Iowa license or authorization. An additional fee of ~~\$100~~ \$104 per calendar month, not to exceed ~~\$500~~ \$520, shall be imposed if the practitioner does not hold a valid Iowa license or authorization. The fee will begin to be assessed on the first day of the school year for which the practitioner is employed until the practitioner submits a completed application packet for the appropriate license. The penalty will enforce Iowa Code section 272.7. Waiver of the fee will be granted only upon a showing of extraordinary circumstances rendering imposition of the fee unreasonable.

**282—12.7(272)** No change.

**282—12.8(272) Portfolio review and evaluation fees.** The fee for review and evaluation of an applicant portfolio is set as follows:

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

**12.8(1)** For the professional education core, the portfolio review and evaluation fee shall be \$500 ~~\$504~~.

**12.8(2)** For content endorsement, the portfolio review and evaluation fee shall be ~~\$250~~ \$254.

**282—12.9(272)** No change.

These rules are intended to implement Iowa Code chapter 272.

**ARC 2130C****EDUCATIONAL EXAMINERS BOARD[282]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 272.2(17), the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 13, “Issuance of Teacher Licenses and Endorsements,” Chapter 15, “Special Education Support Personnel Authorizations,” Chapter 16, “Statements of Professional Recognition (SPR),” Chapter 18, “Issuance of Administrator Licenses and Endorsements,” Chapter 20, “Renewals,” Chapter 22, “Authorizations,” Chapter 23, “Behind-the-Wheel Driving Instructor Authorization,” Chapter 24, “Paraeducator Certificates,” and Chapter 27, “Issuance of Professional Service Licenses,” Iowa Administrative Code.

The proposed amendments update administrative rules to reflect changes to Iowa Code section 272.2(17), which was amended by 2015 Iowa Acts, Senate File 131, regarding the review of information in the Iowa court information system during background checks. The amendments also streamline several rules by creating a single reference for all background check procedures.

Any interested person may make written comments or suggestions on the proposed amendments before 4 p.m. on Friday, September 25, 2015. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147; or sent by e-mail to [kim.cunningham@iowa.gov](mailto:kim.cunningham@iowa.gov); or by fax to (515)281-7669.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, September 23, 2015, at 1 p.m. in Room B50, Basement, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, at the above address, or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

These amendments are subject to waiver pursuant to 282—Chapter 6.

After analysis and review of this rule making, there is no anticipated impact on jobs.

These amendments are intended to implement Iowa Code section 272.2(17) as amended by 2015 Iowa Acts, Senate File 131.

The following amendments are proposed.

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

ITEM 1. Amend rule 282—13.1(272) as follows:

**282—13.1(272) All applicants desiring Iowa licensure.**

**13.1(1)** *Licenses, authorizations, certificates, and statements of professional recognition.* Licenses, authorizations, certificates, and statements of professional recognition are issued upon application filed on a form provided by the board of educational examiners and upon completion of the following:

~~13.1(1)~~ *a. National criminal history background check.* An initial applicant will be required to submit a completed fingerprint packet that accompanies the application to facilitate a national criminal history background check. The fee for the evaluation of the fingerprint packet will be assessed to the applicant.

~~13.1(2)~~ *b. Iowa division of criminal investigation background check.* An Iowa division of criminal investigation (DCI) background check will be conducted on initial applicants. The fee for the evaluation of the DCI background check will be assessed to the applicant.

*c. Registries and records check.* A check of the following registries and records will be conducted on initial applicants: the sex offender registry under Iowa Code section 692A.121, the central registry for child abuse information established under Iowa Code chapter 235A, the central registry for dependent adult abuse information maintained under Iowa Code chapter 235B, and the information in the Iowa court information system available to the general public. The fee for checks of these registries and records will be assessed to the applicant.

~~13.1(3)~~ **13.1(2)** *Temporary permits.* The executive director may issue a temporary permit to an applicant for any type of license, certification, or authorization issued by the board, after receipt of a fully completed application; determination that the applicant meets all applicable prerequisites for issuance of the license, certification, or authorization; and satisfactory evaluation of the Iowa criminal history background check. The temporary permit shall serve as evidence of the applicant's authorization to hold a position in Iowa schools, pending the satisfactory completion of the national criminal history background check. The temporary permit shall expire upon issuance of the requested license, certification, or authorization or 90 days from the date of issuance of the permit, whichever occurs first, unless the temporary permit is extended upon a finding of good cause by the executive director.

ITEM 2. Adopt the following **new** subparagraph **15.7(6)“b”(6)**:

(6) Have completed the background check requirements set forth in rule 282—13.1(272).

ITEM 3. Amend rule 282—16.1(272) as follows:

**282—16.1(272) Statement of professional recognition (SPR).**

**16.1(1)** The following are authorizations requiring or permitting statements of professional recognition and licenses obtained from the professional licensure division, department of public health, or the board of nursing:

1. *a.* School audiologist.
2. *b.* School nurse.
3. *c.* School occupational therapist.
4. *d.* School physical therapist.
5. *e.* School social worker.
6. *f.* Special education nurse.
7. *g.* Speech-language pathologist.

**16.1(2)** *Application.* Statements of professional recognition are issued upon application filed on a form provided by the board of educational examiners and upon completion of the background check requirements set forth in rule 282—13.1(272).

ITEM 4. Amend rule 282—18.1(272) as follows:

**282—18.1(272) All applicants desiring an Iowa administrator license.**

**18.1(1)** *Administrator licenses.* Administrator licenses are issued upon application filed on a form provided by the board of educational examiners and upon completion of the following:

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

~~18.1(1) *National criminal history background check.* An initial applicant will be required to submit a completed fingerprint packet that accompanies the application to facilitate a national criminal history background check. The fee for the evaluation of the fingerprint packet will be assessed to the applicant. the background check requirements set forth in rule 282—13.1(272).~~

~~18.1(2) *Iowa division of criminal investigation background check.* An Iowa division of criminal investigation background check will be conducted on initial applicants. The fee for the evaluation of the DCI background check will be assessed to the applicant.~~

~~18.1(3) 18.1(2) *Temporary permits.* The executive director may issue a temporary permit to an applicant for any type of license, certification, or authorization issued by the board, after receipt of a fully completed application, including certification from the applicant of completion of the Praxis II examination, if required; determination that the applicant meets all applicable prerequisites for issuance of the license, certification, or authorization; and satisfactory evaluation of the Iowa criminal history background check. The temporary permit shall serve as evidence of the applicant's authorization to hold a position in Iowa schools, pending the satisfactory completion of the national criminal history background check and the board's receipt of verification of completion of the Praxis II examination. The temporary permit shall expire upon issuance of the requested license, certification, or authorization or 90 days from the date of issuance of the permit, whichever occurs first, unless the temporary permit is extended upon a finding of good cause by the executive director.~~

ITEM 5. Amend subrule 20.3(3) as follows:

**20.3(3) *Background check.*** Every ~~renewal~~ applicant for renewal or conversion is required to submit a completed application form with the applicant's signature to facilitate a check of the sex offender registry information under Iowa Code section 692A.121, the central registry for child abuse information established under Iowa Code chapter 235A, ~~and the central registry for dependent adult abuse records information maintained under Iowa Code chapter 235B, and the Iowa court information system.~~ The board may assess the applicant a fee no greater than the costs associated with obtaining and evaluating the background check.

ITEM 6. Amend subrule 22.1(2) as follows:

**22.1(2) *Requirements.*** Applicants for the coaching authorization shall have completed the following requirements:

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

~~*c. Iowa division of criminal investigation background Background check.* Applicants must have successfully completed an Iowa division of criminal investigation background check. The background check fee will be assessed to the applicant. Applicants must complete the background check requirements set forth in rule 282—13.1(272).~~

~~*d. National criminal history background check.* Applicants must have successfully completed a national criminal history background check. The background check fee will be assessed to the applicant.~~

ITEM 7. Amend paragraph **22.2(1)“a”** as follows:

*a. Requirements.* Applicants for the substitute authorization shall meet the following requirements:

(1) to (3) No change.

~~(4) Iowa division of criminal investigation background Background check.~~ Applicants must have successfully completed an Iowa division of criminal investigation background check. The background check fee will be assessed to the applicant. Applicants must complete the background check requirements set forth in rule 282—13.1(272).

~~(5) National criminal history background check.~~ Applicants must have successfully completed a national criminal history background check. The background check fee will be assessed to the applicant.

ITEM 8. Amend subrule 22.3(4) as follows:

**22.3(4) *Specific requirements for an initial school business official authorization.*** Applicants for an initial school business official authorization shall have completed the following requirements:

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

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

~~c. *Iowa division of criminal investigation background Background check.* Applicants must have successfully completed an Iowa division of criminal investigation background check. The background check fee will be assessed to the applicant. Applicants must complete the background check requirements set forth in rule 282—13.1(272).~~

~~d. *National criminal history background check.* Applicants must have successfully completed a national criminal history background check. The background check fee will be assessed to the applicant.~~

ITEM 9. Amend paragraph **22.5(3)“b”** as follows:

~~b. *Iowa division of criminal investigation background Background check.* The applicant must have successfully completed an Iowa division of criminal investigation background check. The background check fee will be assessed to the applicant. The applicant must complete the background check requirements set forth in rule 282—13.1(272).~~

ITEM 10. Rescind paragraph **22.5(3)“c.”**

ITEM 11. Reletter paragraphs **22.5(3)“d”** to **“g”** as **22.5(3)“c”** to **“f.”**

ITEM 12. Amend subrule 22.5(6) as follows:

**22.5(6) *Conversion.*** The preliminary native language teaching authorization may be converted to a native language teaching authorization. The applicant must provide official transcripts verifying the completion of the coursework required in 22.5(3)“e.” “d.”

ITEM 13. Amend subrules 22.7(3) and 22.7(4) as follows:

**22.7(3) *Application process.*** Any person interested in the school administration manager authorization shall submit to the board of educational examiners an application which includes a written verification of employment from a school district administrator. Application materials are available from the office of the board of educational examiners, online at <http://www.boee.iowa.gov/>.

A person serving as a school administration manager prior to July 1, 2014, is eligible for the standard school administration manager authorization, subject to the Iowa division of criminal investigation and national criminal history background checks. The person will be assessed the background check fee. The school administration manager must have completed the school administration manager training and be listed on the Basic Educational Data Survey as a school administration manager by October 31, 2013. The application fee for such persons will be waived if the application is received prior to June 30, 2014.

**22.7(4) *Specific requirements for an initial school administration manager authorization.*** Applicants for an initial school administration manager authorization shall have completed the following requirements:

a. and b. No change.

~~c. *Iowa division of criminal investigation background Background check.* Applicants must have successfully completed an Iowa division of criminal investigation background check. The background check fee will be assessed to the applicant. Applicants must complete the background check requirements set forth in rule 282—13.1(272).~~

~~d. *National criminal history background check.* Applicants must have successfully completed a national criminal history background check. The background check fee will be assessed to the applicant.~~

ITEM 14. Amend paragraph **22.8(3)“b”** as follows:

~~b. *Iowa division of criminal investigation background Background check.* The applicant must have successfully completed an Iowa division of criminal investigation background check. The background check fee will be assessed to the applicant. The applicant must complete the background check requirements set forth in rule 282—13.1(272).~~

ITEM 15. Rescind paragraph **22.8(3)“c.”**

ITEM 16. Reletter paragraphs **22.8(3)“d”** to **“f”** as **22.8(3)“c”** to **“e.”**

ITEM 17. Amend subrule 22.10(1) as follows:

**22.10(1) *Application process.*** Any person interested in the activities administration authorization shall submit an application and records of credit to the board of educational examiners for an evaluation

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

of the required courses or contact hours. Application materials are available from the office of the board of educational examiners online at <http://www.boee.iowa.gov>.

a. and b. No change.

c. ~~Iowa division of criminal investigation background~~ Background check. Applicants must have successfully completed an Iowa division of criminal investigation background check. The background check fee will be assessed to the applicant. Applicants must complete the background check requirements set forth in rule 282—13.1(272).

d. ~~National criminal history background check~~. Applicants must have successfully completed a national criminal history background check. The background check fee will be assessed to the applicant.

ITEM 18. Adopt the following new paragraph **23.1(1)“d”**:

d. Complete the background check requirements set forth in rule 282—13.1(272).

ITEM 19. Amend rule 282—24.1(272) as follows:

**282—24.1(272) Paraeducator certificates.** Iowa paraeducator certificates are issued upon application filed on a form provided by the board of educational examiners. Applicants must complete the background check requirements set forth in rule 282—13.1(272).

ITEM 20. Adopt the following new paragraph **27.2(1)“e”**:

e. Completes the background check requirements set forth in rule 282—13.1(272).

**ARC 2118C**

## **EDUCATION DEPARTMENT[281]**

### **Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby proposes to amend Chapter 15, “Use of Online Learning and Telecommunications for Instruction by Schools,” Iowa Administrative Code.

Chapter 15 was promulgated to implement 2012 Iowa Acts, chapter 1119, sections 13 through 17, and became effective January 16, 2013. 2012 Iowa Acts, chapter 1119, section 15, amended Iowa Code section 256.7 by adding a new subsection in which the State Board of Education was required to adopt rules “prohibiting the open enrollment of students whose educational instruction and course content are delivered primarily over the internet.” An exception to that prohibition is contained in Iowa Code section 256.7, subsection 32, paragraph “c,” which applies exclusively to the CAM Community School District and the Clayton Ridge Community School District. Pursuant to 2015 Iowa Acts, Senate File 510, section 99, Iowa Code section 256.7, subsection 32, paragraph “c,” is amended to provide exceptions to prior enrollment limitations and to provide additional reporting requirements for the school districts. This amendment implements those changes.

An agencywide waiver provision is provided in 281—Chapter 4.

Interested individuals may make written comments on the proposed amendment on or before September 22, 2015, at 4:30 p.m. Comments on the proposed amendment should be directed to Phil Wise, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-4835; e-mail [phil.wise@iowa.gov](mailto:phil.wise@iowa.gov); or fax (515)242-5988.

A public hearing will be held on September 22, 2015, from 9 to 10 a.m. in the State Board Room, Second Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing.

EDUCATION DEPARTMENT[281](cont'd)

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should advise the Department of Education of their specific needs by calling (515)281-5295.

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

This amendment is intended to implement Iowa Code section 256.7(32)“c” as amended by 2015 Iowa Acts, Senate File 510, section 99.

The following amendment is proposed.

Rescind rule 281—15.8(256) and adopt the following new rule in lieu thereof:

**281—15.8(256) Prohibition regarding open enrollment.** Open enrollment of students to a school district that offers online coursework is limited to open enrollment to the receiving school districts of Cumberland-Anita-Massena (CAM) and Clayton Ridge, pursuant to Iowa Code section 256.7(32)“c” as amended by 2015 Iowa Acts, Senate File 510, section 99. In implementing any numerical limitation required by Iowa Code section 256.7(32)“c” as amended by 2015 Iowa Acts, Senate File 510, section 99, priority shall be given to students who are documented victims of bullying and harassment, as defined in Iowa Code section 280.28.

**ARC 2119C**

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

**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 418.7, the Department of Homeland Security and Emergency Management hereby gives Notice of Intended Action to amend Chapter 14, “Flood Mitigation Program,” Iowa Administrative Code.

The proposed amendments are intended to implement 2015 Iowa Acts, House Files 616 and 655. These proposed amendments expand the definition of “governmental entity” and add the Director of the Iowa Department of Revenue or the Director’s designee as an ex officio nonvoting member of the Flood Mitigation Board.

Consideration will be given to all written suggestions or comments on the proposed amendments on or before September 22, 2015. Such written materials should be sent to the Administrative Rules Coordinator, Iowa Homeland Security and Emergency Management, 7900 Hickman Road, Suite 500, Windsor Heights, Iowa 50324; fax (515)725-3260; or e-mail at [john.benson@iowa.gov](mailto:john.benson@iowa.gov).

Also, there will be a public hearing on September 22, 2015, at 11 a.m., in the Homeland Security and Emergency Management Cyclone Conference Room, 7900 Hickman Road, Suite 500, Windsor Heights, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

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

This Notice of Intended Action was reviewed and approved by the Iowa Flood Mitigation Board in accordance with Iowa Code chapter 418 during a scheduled meeting on July 30, 2015.

After analysis and review of this rule making, it has been determined that new jobs are likely to be created as a result of these amendments.

## HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605](cont'd)

These amendments are intended to implement Iowa Code chapter 418 as amended by 2015 Iowa Acts, House File 616 and House File 655.

The following amendments are proposed.

ITEM 1. Amend rule ~~605~~—**14.2(418)**, definition of “Governmental entity,” as follows:

“*Governmental entity*” means any of the following:

1. A county.
2. A city.
3. A joint board or other legal or administrative entity established or designated in an agreement pursuant to Iowa Code chapter 28E or 28F between any of the following:
  - Two or more cities located in whole or in part within the same county.
  - A county and one or more cities that are located in whole or in part within the county.
  - A county, one or more cities that are located in whole or in part within the county, and a drainage district formed by mutual agreement under Iowa Code section 468.142 located in whole or in part within the county.
  - One or more counties, one or more cities that are located in whole or in part within those counties, and one or more sanitary districts established under Iowa Code chapter 358 or a combined water and sanitary district as provided for in Iowa Code sections 357.1B and 358.1B, located in whole or in part within those counties.

ITEM 2. Amend subrule 14.3(2) as follows:

**14.3(2)** The board shall be comprised of nine voting members and ~~four~~ five ex-officio nonvoting members.

a. The voting members shall include all of the following:

(1) Four members of the general public appointed by the governor and confirmed by the senate in accordance with Iowa Code sections 69.16 and 69.16A. These members shall be appointed to three-year staggered terms, and the terms shall commence and end as provided in Iowa Code section 69.19.

1. Two members of the general public shall have demonstrable experience or expertise in the field of natural disaster recovery.

2. Two members of the general public shall have demonstrable experience or expertise in the field of flood mitigation.

(2) The director of the department of natural resources or the director’s designee.

(3) The secretary of agriculture or the secretary’s designee.

(4) The director of the department or the director’s designee.

(5) The treasurer of state or the treasurer’s designee.

(6) The executive director of the Iowa finance authority or the executive director’s designee.

b. The ex-officio nonvoting members shall include ~~four members of the general assembly with one each appointed by~~ the following:

(1) The A member of the general assembly appointed by the majority leader of the senate.

(2) The A member of the general assembly appointed by the minority leader of the senate.

(3) The A member of the general assembly appointed by the speaker of the house of representatives.

(4) The A member of the general assembly appointed by the minority leader of the house of representatives.

(5) The director of the department of revenue or the director’s designee.

**ARC 2124C****HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 217.6, the Department of Human Services proposes to amend Chapter 150, “Purchase of Service,” and Chapter 202, “Foster Care Placement and Services,” Iowa Administrative Code.

These amendments provide a rate increase of 5 percent to resource family recruitment and retention contractors, child welfare emergency service contractors, and supervised apartment living foster care providers. These amendments align Department administrative rules with 2015 Iowa Acts, Senate File 505, section 29, subsection 6, which states:

“For the fiscal year beginning July 1, 2015, the reimbursement rates for resource family recruitment and retention contractors, child welfare emergency services contractors, and supervised apartment living foster care providers shall be increased by 5 percent over the rates in effect on June 30, 2015.”

Any interested person may make written comments on the proposed amendments on or before September 22, 2015. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, Fifth Floor, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

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

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

These amendments are intended to implement Iowa Code section 217.6 and 2015 Iowa Acts, Senate File 505, section 29(6).

The following amendments are proposed.

ITEM 1. Amend subparagraph **150.3(5)“p”(1)** as follows:

(1) The combined service and maintenance reimbursement rate paid to a shelter care provider shall be based on the financial and statistical report submitted to the department. For the fiscal year beginning July 1, ~~2013~~ 2015, the maximum reimbursement rate shall be ~~\$96.98~~ \$101.83 per day, based on a 365-day year. If the department reimburses the provider at less than the maximum rate, the department shall adjust the provider’s reimbursement rate to the provider’s actual and allowable cost plus the inflation factor or to the maximum reimbursement rate, whichever is less.

ITEM 2. Amend paragraph **202.9(4)“e”** as follows:

*e.* Contractors providing a cluster setting shall be paid ~~\$500~~ \$551.25 per month per child in the setting for agency staffing costs, in addition to billable units of services provided to the child, but are eligible for this payment only when two or more children are in the setting. For a child who enters a cluster setting during the month, the prorated amount per day is ~~\$16.44~~ \$18.12. If a child exits the setting on or before the last day of the month, the ~~\$500~~ \$551.25 shall be prorated up to the date before the date of exit.

**ARC 2122C**

**INSPECTIONS AND APPEALS DEPARTMENT[481]**

**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 10A.104(8), the Department of Inspections and Appeals hereby gives Notice of Intended Action to amend Chapter 25, “Iowa Targeted Small Business Certification Program,” Iowa Administrative Code.

The amendments implement changes to Iowa Code chapter 73, “Preferences,” resulting from legislation in 2015 Iowa Acts, Senate File 499. The legislation adds “service-disabled veteran” to the categories of persons who may seek targeted small business certification.

The Department does not believe that the proposed amendments pose a financial hardship on any regulated entity or individual.

Any interested person may make written suggestions or comments on the proposed amendments on or before September 22, 2015. Such written materials should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083; faxed to (515)242-6863; or e-mailed to [David.Werning@dia.iowa.gov](mailto:David.Werning@dia.iowa.gov).

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

These amendments are intended to implement Iowa Code section 10A.104(8) and Iowa Code chapter 73 as amended by 2015 Iowa Acts, Senate File 499.

The following amendments are proposed.

ITEM 1. Adopt the following **new** definition of “Service-disabled veteran” in rule **481—25.1(73)**:  
*“Service-disabled veteran”* means the same as defined in 15 U.S.C. Section 632.

ITEM 2. Amend rule **481—25.1(73)**, definitions of “Targeted group persons (TGP)” and “Targeted small business owner,” as follows:

*“Targeted group persons (TGP)”* means minorities, women, and persons with disabilities, and service-disabled veterans. ~~In order to be considered a person with a disability for the purpose of the TSB program, the person must qualify and receive certification as having a disability from a licensed medical physician or must have been found eligible for vocational rehabilitation services by the Department of Education, Division of Vocational Rehabilitation services, or by the department for the blind.~~

*“Targeted small business owner”* means one or more women, minorities, persons with disabilities, service-disabled veterans, or a combination thereof, owning at least 51 percent of a business.

ITEM 3. Adopt the following **new** subrule 25.2(8):

**25.2(8)** Disability determinations.

*a. Person with a disability.* In order to be considered a person with a disability for the purpose of the TSB program, the person must qualify and receive certification as having a disability from a licensed medical physician or must have been found eligible for vocational rehabilitation services by the department of education, division of vocational rehabilitation services, or by the department for the blind.

*b. Service-disabled veteran.* In order to be considered a service-disabled veteran for the purpose of the TSB program, the person must provide written verification from the Veterans Administration or the United States Department of Defense of a service-connected disability, as defined in 38 U.S.C. Section 101(16).

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

ITEM 4. Amend paragraph **25.4(1)“e”** as follows:

*e.* The targeted group person owner(s) shall have independent authority and ability to incur liability and to decide financial and policy questions. The business arrangements of owners, directors, officers or key employees with businesses which are not minority-, woman-, or persons with disabilities-<sub>2</sub> or service-disabled veteran-owned shall not vary from common industry practice. Each industry has practices which differ from other industries.

**ARC 2128C**

**IOWA FINANCE AUTHORITY[265]**

**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 17A.3(1)“b,” 16.5(1)“r” and 16.91(8), the Iowa Finance Authority hereby gives Notice of Intended Action to amend Chapter 9, “Title Guaranty Division,” Iowa Administrative Code.

The proposed amendment strikes rules 265—9.1(16) to 265—9.22(16) and adopts new rules 265—9.1(16) to 265—9.11(16) in order to reorganize Chapter 9. The purpose of the amendment is to clarify the rules, align the language with statutory authority and current practice, and streamline the process for obtaining a title plant waiver.

Additionally, the proposed amendment makes the following changes:

- Moves definitions contained in existing rules 265—9.1(16), 265—9.7(16), 265—9.9(16) and 265—9.11(16) to new rule 265—9.1(16); removes definitions for words that are no longer used or which are defined in context; changes the term “division closer” to “participating closer”; and lists the licensed persons who qualify to be participating closers.

- Corrects the Web-site address and adds an e-mail address in rule 265—9.4(16) and moves rule 265—9.5(16) to subrule 9.4(1), thus combining office locations and instructions for requesting information.

- Changes the catchwords from “title guaranty program” to “operation” in rule 265—9.5(16); moves the content of rules 265—9.6(16), 265—9.8(16) and 265—9.10(16) to rule 265—9.5(16); aligns requirements for Division Board approval of documents with the Iowa Code; strikes provisions for a special notice to and comments from certain parties; strikes limitations on who can submit an application for a commitment or certificate and states where the application is located; aligns the requirements in subrule 9.5(3) with the Iowa Code; and eliminates language that references an out-of-date practice.

- Combines in rule 265—9.6(16) all requirements relating to participants and specifies requirements to apply; eliminates inconsistencies between the rules applying to participating attorneys, participating abstractors and participating closers; and removes redundant information.

The proposed amendment also makes the following changes in rule 265—9.6(16):

- Adds subrules on the participant application and participation agreement and simplifies language on the annual fee.

- Changes the catchwords for subrule 9.6(5) from “errors and omissions insurance” to “liability insurance” and strikes provisions for a special notice to and comments from certain parties.

- Combines the authority of various participant types under agent relationship and eliminates redundancies.

- Changes catchwords from “interest in property” to “conflict of interest” in subrule 9.6(7) and applies the subrule to all participant types.

- Consolidates underwriting expectations in new subrule 9.6(8), “clearance of title objections,” and adds clarity to the purpose of underwriting activities.

## IOWA FINANCE AUTHORITY[265](cont'd)

- Changes catchwords from “commitment and certificate amount limitations” to “commitment and certificate coverage limitations” in subrule 9.6(9) to reflect the terminology used in current practice.
- Applies document retention requirements to all participants.
- Combines the content of the office audits and investigation subrules under the subrule on compliance to reflect a broader range of compliance activities.

The proposed amendment also adds new rule 265—9.7(16), “services offered,” which includes the following changes:

- Removes the provisional waiver rule and simplifies the approval process for building a title plant.
- Removes reference to “permanent” from the title plant waiver; combines application requirements for attorneys and nonattorneys; and clarifies the content of the application.
- Modifies the time line for application and Board review and approval for title plant waivers; increases the time to review the application; establishes a time frame to accept public comments for consideration in the development of the written ruling; and moves accepting or amending the written ruling to the first Board meeting. If the Board rejects the proposed written ruling, then the ruling will be adopted by the Board at the next scheduled Board meeting.
- Expands on conditions of waiver and allows the Division to require a guarantee, performance bond, or other form of indemnification as assurance for abstracting performed by the waiver recipient.
- Expands withdrawal provisions; changes the catchwords from “voiding or cancellation” to “withdrawal of a waiver” in 9.7(1)“d”(8); and specifies that if abstracts prepared by the waiver recipient fail to meet abstract minimum standards adopted by the Division, the result may be the withdrawal of the waiver.

Lastly, the proposed amendment makes the following further changes:

- Revises language to reflect current case law.
- Expands eligibility considerations for issuance of closing protection letters to meet current best practices and applies irrevocable letter of direction to all participating closers.
- In rule 265—9.10(16), removes the paragraph on closing.
- In rule 265—9.11(16), removes reference to words on the corporate seal.

The proposed amendment organizes and renumbers the rules in Chapter 9 as follows:

<b>New Rule Number</b>	<b>Rule Catchwords</b>	<b>Former Rule Number</b>
9.1	Definitions	9.1
9.2	Purpose	9.2
9.3	Mission	9.3
9.4	Organization	9.4, 9.5
9.5	Operation	9.6, 9.8, 9.10
9.6	Participants	9.6
9.7	Services offered	9.6, 9.7
9.8	Claims	9.11
9.9	Mortgage release certificate	9.9
9.10	Rules of construction	9.12
9.11	Seal	9.13

The Authority will receive written comments on the proposed amendment until 4:30 p.m. on September 22, 2015. Comments may be addressed to Iowa Title Guaranty, 2015 Grand Avenue, Des Moines, Iowa 50312. Comments may also be faxed to Tara Lawrence at (515)725-4901 or e-mailed to [tara.lawrence@iowa.gov](mailto:tara.lawrence@iowa.gov).

## IOWA FINANCE AUTHORITY[265](cont'd)

A public hearing will be held on September 22, 2015, from 1 to 2 p.m. in the Presentation Room at Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa. Interested persons will be given the opportunity to make oral statements and submit documents concerning the proposed amendment.

This amendment does not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Authority's general rule on waivers at 265—Chapter 18.

After analysis and review of this rule making, no adverse impact on jobs is expected.

This amendment is intended to implement Iowa Code sections 16.2A, 16.4C, 16.91, 16.92, and 16.93. The following amendment is proposed.

Amend **265—Chapter 9** as follows:

CHAPTER 9  
TITLE GUARANTY DIVISION

**265—9.1(16) Definitions.** The following words and phrases, when used in this chapter, shall have the meanings set forth below unless a meaning is inconsistent with the manifest intent or the context of a particular rule:

*“Abstract of title” or “abstract,”* for the purposes of the title guaranty program, means a written or electronic summary of all matters of record including, but not limited to, grants, conveyances, easements, encumbrances, wills, and judicial proceedings affecting title to a specific parcel of real estate, together with a statement including, but not limited to, all liens, judgments, taxes and special assessments affecting the property and a certification by a participating abstractor that the summary is complete and accurate; provided, however, that for purposes of issuance of a title guaranty certificate covering nonpurchase financing, and for only such purposes, the “abstract of title” or “abstract” may also mean a title guaranty report of title.

*“Authority”* means the Iowa finance authority described in Iowa Code chapter 16.

*“Certificate”* means the division certificate to guarantee title, including any part or schedule thereof and any endorsements thereto.

*“Closing protection letter”* means an agreement by the division to indemnify a lender or owner or both for loss caused by a division closer's theft of settlement funds or failure to comply with written closing instructions relating to title certificate coverage when agreed to by the division closer.

*“Commitment”* means the division commitment to guarantee title, including any part or schedule thereof and any endorsements thereto.

*“Division”* means the title guaranty division of the Iowa finance authority.

*“Division board”* means the board of the title guaranty division created pursuant to Iowa Code section 16.2A(1).

*“Division closer”* means a participating attorney, a participating abstractor, or an independent closer who is authorized by the division to conduct a division closing under the protection of a closing protection letter.

*“Division closing”* means a settlement in which a division closer is appointed to finalize a real estate transaction in accordance with general and specific instructions prior to disbursement of the proceeds and for which a closing protection letter is issued.

*“Division escrow account”* means, in conjunction with division closings, escrows, settlements, and title indemnities, any checking account utilized for the purpose of:

- 1.—Deposits, including, but not limited to, the acceptance of incoming funds from the lender or borrower or both; and
- 2.—Disbursements, including, but not limited to, sellers' proceeds, mortgage payoffs, expenses of sale, and professional fees.

However, “division escrow account” shall not include client trust accounts subject to the requirements of chapter 45 of the Iowa Court Rules.

## IOWA FINANCE AUTHORITY[265](cont'd)

~~“Electronic record,” for the purposes of the title guaranty program, means a record created, generated, sent, communicated, received, or stored by electronic means that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.~~

~~“Field issuer” means a participating attorney, a participating abstractor, or an independent closer authorized by the division to issue commitments and certificates.~~

~~“Form” or “forms” means printed instruments used in guaranteeing title to Iowa real estate that, when completed and executed, create contractual obligations or rights affecting the division.~~

~~“Grandfathered attorney” means a participating attorney who has been providing abstract services continuously from November 12, 1986, to the date of application to be a participating abstractor, either personally or through persons under the participating attorney’s supervision and control, who is exempt from the requirement to own or lease a title plant.~~

~~“Independent closer” means a person or entity, other than a participating attorney or a participating abstractor, conducting a division closing and authorized to close a transaction under protection of a closing protection letter.~~

~~“Manual” means a title guaranty reference book approved by the division board containing division certificate forms and certain Iowa statutory requirements.~~

~~“Nonpurchase financing,” for the purposes of the title guaranty program, means a refinanced or junior mortgage securing an amount fixed by the division board and included in the manual.~~

~~“Participant” means a participating attorney or a participating abstractor.~~

~~“Participating abstractor” means an abstractor who is authorized to participate in the title guaranty program and who is in full compliance with the abstractor’s participation agreement, the Code of Iowa, these rules, the manual, staff supplements, and any other written or oral instructions or requirements given by the division.~~

~~“Participating attorney” means an attorney who is authorized to participate in the title guaranty program, who is in full compliance with the attorney’s participation agreement, the Code of Iowa, these rules, the manual, staff supplements, and any other written or oral instructions or requirements given by the division, and who is not subject to current disciplinary proceedings by the Iowa supreme court that preclude the attorney from practicing law in this state.~~

~~“Person” shall have the same meaning as in Iowa Code section 4.1(20).~~

~~“Residential property,” for the purposes of the title guaranty program, means residential real estate consisting of single family housing or multifamily housing of no more than four units.~~

~~“Supervision and control,” for the purposes of the title guaranty program, means that a participant’s or independent closer’s shareholders, partners, associates, secretaries, paralegals, and other persons under the participant’s or independent closer’s supervision or control who transact the business of abstracting, which includes but is not limited to any manner of title search or review, opining on titles to real estate, or issuing commitments or certificates at the direction of or in the name of the participant or independent closer, shall comply with the requirements of the contracts, forms, the manual, staff supplements, and any other written or oral instructions or requirements given by the division. A participant or independent closer shall be liable to the division for loss or damage suffered by the division resulting from acts or omissions of the participant’s or independent closer’s shareholders, partners, associates, secretaries, paralegals, and other persons under the participant’s or independent closer’s supervision or control who transact the business of abstracting, which includes but is not limited to any manner of title search or review, opining on titles to real estate, or issuing commitments or certificates at the direction of or in the name of the participant or independent closer as an agent of the division as though the act or omission were that of the participant or independent closer.~~

~~“Title guaranty report of title,” for the purpose of nonpurchase financing, means a written or electronic short form of the abstract of title covering the borrower’s title, liens, and encumbrances. The division board shall approve requirements and procedures for the title guaranty report of title in the manual.~~

~~“Title search(es)” or “search(es),” for the purposes of the title guaranty program, means the abstract of title.~~

## IOWA FINANCE AUTHORITY[265](cont'd)

~~265—9.2(16) Purpose.~~ This chapter describes the mission, organization, programs and operations of the division, including the office where and the means by which interested persons may obtain information and make submissions or requests.

~~265—9.3(16) Mission.~~ The mission of the division is to operate a program that offers guaranties of real property titles in order to provide, as an adjunct to the abstract-attorney's title opinion system, a low-cost mechanism to facilitate mortgage lenders' participation in the secondary market and add to the integrity of the land-title transfer system in the state. Surplus funds in the title guaranty fund shall be transferred to the authority's housing program fund after providing for adequate reserves and for the operating expenses of the division.

~~265—9.4(16) Organization.~~

~~9.4(1) Location.~~ The office of the division is located at 2015 Grand Avenue, Des Moines, Iowa 50312. Office hours are 8 a.m. to 4:30 p.m. Monday through Friday, excluding legal holidays. The division's Web site address is [www.iowafinanceauthority.gov](http://www.iowafinanceauthority.gov), and the division's telephone and facsimile numbers are as follows: (515)725-4900 (general telephone number); 1-800-432-7230 (toll-free telephone number); 1-800-618-4718 (TTY); and (515)725-4901 (facsimile).

~~9.4(2) Division board.~~ A chair and vice-chair shall be elected annually by the members of the division board, generally at the first meeting following July 1 of each year, which is the beginning of the fiscal year.

~~9.4(3) Meetings.~~ Meetings of the division board shall be held quarterly on the date and time determined by the board. Meetings of the division board may also be held at the call of the chair or on written request of two members. The division will give advance public notice of the specific date, time and place of each division board meeting, and will post the tentative agenda for each meeting at least 24 hours before commencement of the meeting at the main office of the authority, as well as on the authority's Web site. Meetings may occasionally be conducted by electronic means. Any interested person may attend and observe division board meetings except for any portion of a meeting that may be closed pursuant to Iowa Code section 21.5. The minutes of the division board meetings are available for viewing at the main office of the authority or via the authority's Web site. Three members of the division board constitute a quorum. An affirmative vote of a majority of the appointed board members is necessary for any substantive action taken by the division board. The majority shall not include any board member who has a conflict of interest, and a statement of a conflict of interest shall be conclusive for this purpose.

~~265—9.5(16) Location where public may obtain information.~~ Requests for information, inquiries, submissions, petitions and other requests may be directed to the division at the address set forth in subrule 9.4(1). Requests may be made personally, by telephone, mail, E-mail or any other medium available.

~~265—9.6(16) Title guaranty program.~~

~~9.6(1) Operation.~~ The division operates a program to offer guaranties of real property titles in the state through the issuance of title guaranty commitments and certificates by the division, by participating abstractors for the division pursuant to subrule 9.6(4), paragraph "c," herein, or by participating attorneys pursuant to Iowa Code section 16.91(7).

~~9.6(2) Application for title guaranty commitments or certificates.~~ The division may authorize entities engaged in the real estate industry to apply directly to the division staff, an independent closer, a participating attorney, or a participating abstractor for a title guaranty commitment or certificate. The applicant shall complete and submit such forms and other information as the division may require and pay the appropriate fee. Entities engaged in the real estate industry that the division may authorize to apply include, but are not limited to, mortgage lenders as defined in Iowa Code section 16.1(1)"y," and closing and escrow companies.

~~9.6(3) Participating attorneys.~~ An attorney licensed to practice law in the state of Iowa may participate in the title guaranty program upon approval by the division director of an application

## IOWA FINANCE AUTHORITY[265](cont'd)

submitted by the licensed attorney to the division and upon execution and acceptance by the division director of the attorney's participation agreement.

*a.—License.* A participating attorney shall be licensed to practice law in the state of Iowa and shall be in good standing with the Iowa supreme court at all times while acting as an agent of the division.

*b.—Underwriting determinations.* A participating attorney shall make all underwriting determinations prior to or at the time of closing. If the participating attorney does not attend the closing and is not available by telephone during the closing, all underwriting determinations must have been made by the participating attorney issuing the opinion, commitment or certificate prior to closing. For purposes of this rule, the term "underwriting determinations" includes, but is not limited to, guaranteeing access, reviewing gap searches, possible judgments, survey matters (including encroachments), unreleased mortgages or other liens, and any other matters disclosed by the opinion, commitment or other sources of title information. A participating attorney who causes or allows an erroneous underwriting determination to be made by someone other than a member of the division's legal staff or the participating attorney who issued the opinion, commitment or certificate shall be strictly liable to the division for loss or damage the division may suffer as a result of the erroneous underwriting determination.

(1) A participating attorney shall make all underwriting determinations arising out of the issuance of an attorney title opinion or a title commitment or certificate using both:

1. Generally accepted and prudent title examining methods; and
2. Procedures implemented by the division and outlined in these rules, the manual, staff supplements, and any other written or oral instructions or requirements given by the division.

(2) Any underwriting determination about which there may be a bona fide difference of opinion among local lawyers and that is not specifically covered by materials provided by the division shall be approved by division legal staff.

*c.—Authority of participating attorney.* A participating attorney is authorized to act as an agent of the division but only for the purposes and in the manner set forth in the attorney's participation agreement, the Code of Iowa, these rules, the manual, staff supplements, and any other written or oral instructions given by the division and in no other manner whatsoever. The authority of the participating attorney under the preceding sentence is not exclusive and is subject to the rights of the authority, the division, and other participants, independent closers, agents, or representatives of the division to transact the business of opining on titles to real estate and issuing commitments and certificates and is further subject to the right of the division to appoint other participants and independent closers.

**9.6(4) Participating abstractors.** An abstractor or abstracting concern may participate in the title guaranty program upon approval by the division director of an application to the division and upon execution and acceptance by the division director of an abstractor's participation agreement.

*a.—Title plant.* Participating abstractors shall own or lease, and maintain and use in the preparation of abstracts, an up-to-date abstract title plant including tract indices for real estate for each county in which abstracts are prepared for titles to real property guaranteed by the division. Each of the tract indices shall be designated to encompass a geographical area of not more than one block in the case of platted real estate, nor more than one section in the case of unplatted real estate. The tract indices shall include a reference to all of the instruments affecting real estate recorded in the office of the county recorder, and the tract indices shall commence not less than 40 years prior to the effective date of the abstractor's participation in the title guaranty program.

*b.—Title plant exemption.* Grandfathered attorneys and attorneys and abstractors who have received a waiver of the use of an up-to-date plant described in Iowa Code section 16.91(5) "a"(2), either personally or through persons under their supervision and control, shall be exempt from the requirement to own or lease a title plant. This exemption is a personal exemption of the individual participant, is not transferable, and terminates at such time as the participant ceases providing abstracting services or upon the death or incapacity of the participant.

*c.—Issuing title guaranty.* Pursuant to a written contract with the division director, a participating abstractor may be authorized to issue a title guaranty commitment or certificate for the division when the participating attorney who prepares the opinion allows issuance by the participating abstractor. Written

## IOWA FINANCE AUTHORITY[265](cont'd)

contractual approval by the division director for division issuance will be based upon the completion of a division request form by a participating abstractor and the attachment of all disclosures required by the division. A participating abstractor authorized to issue a title guaranty commitment or certificate must comply with the Code of Iowa, these rules, the manual, staff supplements, and any other written or oral instructions or requirements given by the division and in no other manner whatsoever. The rights of the participating abstractor under the preceding sentence are not exclusive and are subject to the rights of the authority, the division, and other field issuers of the division to issue commitments or certificates and are further subject to the right of the division to appoint other field issuers. A participating abstractor's right to issue commitments and certificates is a privilege for the convenience of the division and may be terminated pursuant to the written contract with the division.

*d.—Authority of participating abstractor.* A participating abstractor is authorized to act as an agent of the division but only for the purposes and in the manner set forth in the abstractor's participation agreement, the Code of Iowa, these rules, the manual, staff supplements, and any other written or oral instructions or requirements given by the division and in no other manner whatsoever. The authority of the participating abstractor under the preceding sentence is not exclusive and is subject to the rights of the authority, the division, and other participating abstractors, agents, or representatives of the division to transact the business of abstracting, which includes but is not limited to any manner of title search or review of titles to real estate, and is further subject to the right of the division to appoint other participating abstractors.

**9.6(5) Participation requirements.**

*a.—Errors and omissions insurance.* A participant shall maintain errors and omissions insurance at all times while acting as an agent of the division, with such coverage and in such amounts as the division board may direct from time to time by resolution.

(1) The division will inform the Iowa State Bar Association, the Iowa Land Title Association, and any person requesting such information of any proposed change in the amount of required errors and omissions insurance at least 30 days prior to the date of the meeting at which the matter will be considered.

(2) Interested parties may submit evidence or statements in support of or in opposition to the proposal in writing or by personal appearance before the division board.

*b.—Participation fees.* A participant shall pay a participation fee set by resolution of the division board subject to the approval of the authority board.

(1) The division will inform the Iowa State Bar Association, the Iowa Land Title Association, and any person requesting such information of any proposed change in the amount of participation fees at least 30 days prior to the date of the meeting at which the matter will be considered.

(2) Interested parties may submit evidence or statements in support of or in opposition to the proposal in writing or by personal appearance before the division board.

**9.6(6) Abstract of title.** All abstracts of title shall be prepared and conducted in compliance with division procedures as specified in the manual, staff supplements, and any other written or oral instructions or requirements given by the division that are in effect at the time of abstracting. A participating abstractor shall retain a written or electronic copy of each abstract of title prepared for a title guaranty certificate and shall provide such copy to the division upon request.

**9.6(7) Attorney title opinion.** All attorney title opinions shall be prepared and issued in compliance with division procedures as specified in the manual, staff supplements, and any other written or oral instructions or requirements given by the division that are in effect at the time of issuance. A participating attorney who is a field issuer may issue a commitment as the preliminary attorney title opinion and the certificate as the final attorney title opinion in compliance with division procedures. A written or electronic copy of each attorney title opinion shall be retained by a field issuer, and a copy thereof shall be provided to the division upon request.

**9.6(8) Closing protection letters.**

*a.—Issuance of closing protection letters.* Division closers may be authorized to receive a closing protection letter approved by the division board when:

(1) A division closer has completed division forms and procedures training;

## IOWA FINANCE AUTHORITY[265](cont'd)

~~(2) The division director has approved the application, and~~

~~(3) A division commitment is issued.~~

~~b.—Application. Application for designation of division closer status shall be on forms provided by the division, and all requested information shall be provided with the application form. The division may consider an application withdrawn if it does not contain all of the information required and the information is not submitted to the division within 30 days after the division requests the information. The application shall be accompanied by a fee to be set by the division board. The division director shall approve or deny the application within 90 days after the application has been accepted for processing and send written notice thereof to the applicant.~~

~~c.—Guidelines. In determining whether to approve or deny an application for designation of division closer status, the division director may consider the following factors, including but not limited to:~~

~~(1) The needs of the public and the needs of existing or potential customers of the applicant that are served by a designation of division closer status.~~

~~(2) A history of operation and management of the applicant's business.~~

~~(3) Character, fitness, financial responsibility and experience of the applicant and the applicant's employees.~~

~~(4) Criminal background checks for felony or misdemeanor convictions of the applicant or the applicant's employees involving moral turpitude.~~

~~(5) A record of defaulting by the applicant or the applicant's employees in the payment of moneys collected for others in this state or other states.~~

~~(6) A history of discharge of debts by the applicant or the applicant's employees through bankruptcy proceedings.~~

~~(7) The applicant's credit report, which is to be submitted directly to the division director at the expense of the applicant.~~

~~(8) Other factors as determined by the division director to be relevant.~~

~~d.—Investigation. The division director may conduct an investigation as deemed necessary. The division director may solicit, by whatever manner deemed appropriate, comments from other persons conducting closings, or from any other person or entity which may be affected by or have an interest in the pending application.~~

~~e.—Revocation. The division director has discretion to revoke a division closer's status for reasons including but not limited to the following:~~

~~(1) When the financial condition of the division closer deteriorates.~~

~~(2) When the division director determines that the division closer's activities are being conducted unlawfully or in an unsafe or unsound manner.~~

~~f.—Authority of division closer. A division closer is authorized to conduct division closings only for the purposes and in the manner set forth in the division closer's agreement, the Code of Iowa, these rules, the manual, staff supplements, and any other instructions or requirements given by the division and in no other manner whatsoever. The authority of the division closer under the preceding sentence is not exclusive and is subject to the rights of the authority, the division, and other division closers to transact the business of guaranteeing titles to real estate in Iowa and is further subject to the right of the division to appoint other division closers.~~

~~A division closer shall obtain the written authorization of a member of the division's legal staff prior to issuing a commitment or certificate which exceeds such amounts as the division board may set from time to time by resolution. If any authorization required under 9.6(8) "f" is not obtained through the act or omission of the division closer, the division closer shall be strictly liable to the division for any resulting loss or damage.~~

~~g.—Division escrow accounts. The division board shall approve procedures and requirements for the maintenance of division escrow accounts. Division closers shall comply with the rules and requirements set by the division board with respect to the procedures, format, and style for maintaining the division escrow accounts. The division board may require the division closer to provide an irrevocable letter of direction to the institution at which each division escrow account is established,~~

## IOWA FINANCE AUTHORITY[265](cont'd)

authorizing the division to review and audit the institution's records of such account at any time that the division, in its discretion, deems necessary.

~~9.6(9) General provisions.~~

~~a.—Commitment and certificate amount limitations.~~ A field issuer shall obtain the written authorization of a member of the division's legal staff prior to issuing a commitment or certificate which exceeds such amounts as the division board may set from time to time by resolution. If any authorization required under this paragraph is not obtained through the act or omission of the field issuer, the field issuer shall be strictly liable to the division for any loss or damage resulting from issuance of the commitment or certificate.

~~b.—Title/closing files and forms.~~ A participant or independent closer shall maintain separate title, client and closing files or maintain client files in such a manner that information pertaining to activities of the participant or the independent closer is readily available to the division. A participant or independent closer shall maintain files for a period of ten years after the effective date of the commitment and certificate or certificates.

(1) The division will provide forms to a participant or independent closer for use in acting for the division. A participant or independent closer may not alter any form supplied by the division, or use a form supplied by another person or entity to bind the division, or otherwise bind the division to liability with a form, other writing or representation not supplied or authorized by the division. In addition, the participant or independent closer shall:

1.—Return the original of any canceled certificate to the division, and

2.—Not transfer or attempt to transfer unissued commitments or certificates to another participant, independent closer, or other person or entity unless authorized in writing by the division.

(2) If a participant or independent closer fails to comply with the requirements of 9.6(9)“b,” in addition to the division's other rights and remedies, the division may refuse to supply any forms to the participant or independent closer until the participant or independent closer complies with the requirements of 9.6(9)“b” to the satisfaction of the division.

(3) The participant or independent closer shall be liable to the division for loss or damage sustained by the division by reason of the loss of, misuse of, or inability of the participant or independent closer to account for any form supplied by the division, or the failure of the participant or independent closer to comply with the requirements of 9.6(9)“b.”

~~c.—Training.~~ The division director may require a participant, an independent closer, and the participant's and independent closer's staff to attend training sessions or continuing education seminars as deemed necessary by the division director in order to ensure compliance with division requirements and procedures.

~~d.—Office audits.~~ The division may, with or without notice to a participant or an independent closer, audit the participant or independent closer at the participant's or independent closer's office. This audit may include, but need not be limited to, a review of the participant's or independent closer's commitment and certificate issuance procedures, an audit of serialized forms, an audit and test of title plants and tract indices, an audit of closing operation and closing procedures, an audit of the division escrow account(s), and verification of the participant's or independent closer's compliance with division rules, participation agreements, the Code of Iowa, these rules, the manual, staff supplements, and any other written or oral instructions or requirements given by the division.

~~e.—Interest in property.~~ No participant or independent closer shall prepare an abstract of title, issue attorney title opinions, commitments, or certificates, or conduct a closing upon property in which the participant or independent closer has an interest without prior authorization of the division.

~~265—9.7(16) Waiver of up-to-date title plant requirement.~~ The division board shall consider an application by an attorney or abstractor for waiver of the use of an up-to-date title plant requirement described in Iowa Code Supplement section 16.91(5)“a”(2).

~~9.7(1) Mission.~~ The division is authorized under Iowa Code chapter 16 to issue title guaranties throughout the state. The division's public purpose is to facilitate lenders' participation in the secondary market and to promote land title stability through use of the abstract-attorney opinion system. The

## IOWA FINANCE AUTHORITY[265](cont'd)

division recognizes the 40-year title plant as the preferred method of providing title evidence for the purpose of issuing title guaranties. The division must weigh the benefits of the traditional title plant with other alternatives to ensure buyers and lenders high quality of title guaranties throughout the state, rapid service, and a competitive price. To assist the division in this mission, Iowa Code Supplement section 16.91(5) "b" expressly allows the division to waive the up-to-date title plant requirement.

**9.7(2) Definitions.** The following words and phrases, when used in this rule, shall have the meanings set forth below unless a meaning is inconsistent with the manifest intent or the context of a particular rule:

*"Availability of title guaranties"* means that title guaranties are uniformly accessible throughout the state to buyers and lenders with competitive pricing, service, and quality and that there are two or more abstractors physically located in all 99 counties.

*"Exempt attorney abstractor,"* as it relates to the title plant requirement, means a grandfathered attorney or a waived attorney.

*"Grandfathered attorney"* means a participating attorney who has been providing abstract services continuously from November 12, 1986, to the date of application to be a participating abstractor, either personally or through persons under the participating attorney's supervision and control, who is exempt from the requirement to own or lease a title plant. This exemption is a personal exemption of the individual participating attorney, is not transferable, and terminates at such time as the participating attorney ceases providing abstracting services or upon the death or incapacity of the participating attorney.

*"Hardship"* means deprivation, suffering, adversity, or long-term adverse financial impact in complying with the title plant requirement that is more than minimal when considering all the circumstances. Financial hardship alone may constitute a hardship.

*"Interested person"* means a person requesting a plant waiver, all division board members, all participating abstractors in the county for which the waiver is requested, the Iowa State Bar Association, the Iowa Land Title Association, and any person requesting such information that an application for waiver has been made to the division.

*"Person"* means an individual, including a corporation, limited liability company, government or governmental subdivision or agency, business trust, trust, partnership or association, or any other legal entity.

*"Public interest"* means that which is beneficial to the public as a whole, including but not limited to increasing competition among abstractors, encouraging the use of title guaranties throughout the state, making title guaranties more competitive than out-of-state title insurance, increasing the division's market share, improving the quality of land titles, protecting consumers, and encouraging maximum participation by participating abstractors and participating attorneys physically located in all 99 counties.

*"Waiver"* or *"variance"* means an action by the division which suspends in whole or in part the requirement of the use of a current tract index described in Iowa Code Supplement section 16.91(5) as applied to an abstractor.

**9.7(3) Filing of application.** An applicant must submit a plant waiver application in writing to the attention of the director of the Title Guaranty Division of the Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312.

**9.7(4) Content of application.** The title guaranty division may provide an application form on the division's Web site. A plant waiver application shall include, at a minimum, the following information where applicable and known to the applicant:

- a.—The name, business address, E-mail address, and telephone number of the abstractor for whom a waiver is being requested;
- b.—The type of waiver being requested, as described in subrule 9.7(8);
- c.—A general description of the applicant's business;
- d.—A description of intention to develop a 40-year tract index;
- e.—The relevant facts that the applicant believes would justify a waiver under subrules 9.7(7) and 9.7(8); and

## IOWA FINANCE AUTHORITY[265](cont'd)

~~f.—A signed statement from the applicant attesting to the accuracy of the facts provided in the application.~~

~~9.7(5) Notification and response.~~

~~a.—The division director shall acknowledge an application upon receipt. All interested persons shall be contacted by E-mail and Web-site posting, and notice shall be given by United States first-class mail to any party requesting the same in writing. Notice shall be given within 14 days of the receipt of the application by the division director. Notification to an interested person is not a requirement for the division board to consider the waiver, and failure to inform an interested person of an application for waiver shall not void or otherwise nullify any action or decision of the division board.~~

~~b.—Any person may submit a written statement in support of or in opposition to the application.~~

~~c.—The application shall be placed on the agenda for the next scheduled division board meeting which is at least 30 days after the application is filed unless a special meeting is requested by the chairperson of the board or by written request of two board members.~~

~~9.7(6) Board meeting action.~~

~~a.—The informal review of the waiver is not a contested case proceeding but other agency action wherein the rules of evidence are not applicable.~~

~~b.—To preserve order, the chairperson of the board may set reasonable limitations upon the number of persons who may appear before the division board and the time allotted for presentations in favor of and against the requested waiver.~~

~~c.—Title guaranty director review. The title guaranty director shall investigate and review the petition and its supporting documentation and, at the waiver meeting before the board, shall give the board a recommendation to grant or deny the waiver.~~

~~d.—The board shall consider the application, the criteria and type of waiver set forth in subrules 9.7(7) and 9.7(8), and then vote on the application.~~

~~9.7(7) Criteria for waiver or variance. In response to an application completed pursuant to subrule 9.7(4), the division board may issue a ruling permanently or provisionally waiving the requirement set forth in Iowa Code Supplement section 16.91(5) “a”(2) of an up-to-date title plant requirement, if the board finds both of the following:~~

~~a.—The title plant requirement described in Iowa Code Supplement section 16.91(5) “a”(2) imposes a hardship to the abstractor or attorney; and~~

~~b.—The waiver is:~~

~~(1) Clearly in the public interest; or~~

~~(2) Absolutely necessary to ensure availability of title guaranties throughout the state.~~

~~9.7(8) Type of waiver or variance granted. Provisional and permanent waivers described in this subsection may be granted by the division board. Guidelines for provisional and permanent waivers are as follows:~~

~~a.—Provisional waivers. The division board may grant a provisional waiver of one year or less to an applicant intending to build a title plant. If such time period is not sufficient, the applicant may reapply to the division board for an extension of the waiver up to one additional year at the discretion of the division board. The division board may grant a provisional waiver when the applicant provides the following:~~

~~(1) Evidence that a title plant will be built for a specified county;~~

~~(2) Evidence of significant financial loss due to the inability to provide abstracts for the division;~~

~~(3) Evidence that the provisional waiver is necessary in order to produce a revenue stream to justify the expense associated with building a title plant; and~~

~~(4) Professional references from two licensed Iowa attorneys or one participating plant abstractor attesting to the applicant’s ability to abstract.~~

~~b.—Permanent waivers for attorneys. The division board may grant a permanent waiver to an Iowa-licensed attorney.~~

~~(1) Attorneys granted a permanent waiver hold the same status as grandfathered attorneys and, absent express legislative authority to the contrary, the board will not limit geographically an attorney’s~~

## IOWA FINANCE AUTHORITY[265](cont'd)

ability to abstract for the division. However, the applicant may by contract with the division board agree voluntarily to limit the applicant's abstracting for the division to one or more specified counties.

(2) A permanent waiver is personal in nature and nontransferable. An attorney granted a permanent waiver shall be personally liable for abstracting conducted on behalf of the division. Although an attorney may abstract through a separate entity, such liability cannot be transferred to a corporate entity nor may an attorney utilize a corporate structure which would shield the attorney from personal liability.

(3) Permanent waivers are predicated upon the attorney's retaining an Iowa license to practice law. An attorney whose license is suspended shall reapply to the division director upon reinstatement by the Iowa supreme court. The division director has the discretion to refer the matter to the division board.

(4) There are two circumstances when an attorney may be granted a permanent waiver:

1. For attorney applicants with experience abstracting under the supervision and control of an exempt attorney abstractor, the board shall consider, at a minimum, the following:

- The applicant's abstract experience. The board shall give considerable weight to an applicant's experience abstracting under the personal supervision and control of an exempt attorney abstractor with whom the applicant has had a close working relationship or with whom the applicant is a legal partner or associate.

- Professional references. The board shall give considerable weight to a recommendation from the exempt attorney abstractor or grandfathered attorney who personally supervised the applicant's abstracting for a period of two years or more and who attests in writing or in person before the division board regarding the applicant's ability to abstract.

- Samples of abstracts prepared by the applicant.

- The division board shall give consideration to the number of participating abstractors physically located in the county or counties where the applicant seeks to abstract in determining whether a waiver should be granted.

2. For attorney applicants without experience working under the supervision and control of an exempt attorney abstractor, the board shall consider, at a minimum, the following:

- The applicant's abstract experience;

- Professional references;

- Samples of abstracts prepared by the applicant;

- The applicant's business plan;

- Evidence of clients and volume of additional transactions that will be brought into the title guaranty abstract/attorney system as a result of the waiver;

- The number, availability, service and quality of other abstractors available to perform abstracting and whether the grant of a permanent waiver will adversely impact the business of other participating abstractors;

- Whether the applicant demonstrates the inability to abstract under the supervision and control of an exempt attorney.

*c. Permanent waivers for non-attorneys.*

(1) The board may grant a permanent waiver with limitations as to county, or transaction type, or both.

(2) In determining whether to grant a waiver, the board shall consider, at a minimum, the following:

1. The applicant's abstract experience, maintenance of a title plant by the applicant in any other county, and degree of participation by the applicant in the title guaranty division standards in excellence program;

2. Professional references;

3. Samples of abstracts prepared by the applicant;

4. The applicant's business plan;

5. Evidence of clients and volume of additional transactions that will be brought into the title guaranty abstract/attorney system as a result of the waiver;

6. The number, availability, service and quality of other abstractors available to perform abstracting and whether the grant of a permanent waiver will adversely impact the business of other participating abstractors.

## IOWA FINANCE AUTHORITY[265](cont'd)

~~9.7(9) Ruling.~~ The division board shall direct the division director to prepare, or cause to be prepared, a proposed written ruling setting forth the board's rationale for granting or denying the waiver. Action to adopt or direct changes to the proposed ruling will be taken by the division board at a subsequent meeting. However, if the board directs the division director to prepare a proposed ruling granting the waiver, the applicant may start abstracting while the ruling is being prepared, and staff shall issue a new participating abstractor number to the applicant immediately.

~~a.~~—The ruling granting or denying a waiver shall contain a reference to the particular applicant, discuss the application of subrules 9.7(7) and 9.7(8), and describe how granting the waiver would or would not advance the division's statutory mission described in subrule 9.7(1). The ruling will summarize the relevant facts and reasons upon which the action is based and include a description of the precise scope and duration of the waiver if the waiver contains limitations, restrictions or requirements.

~~b.~~—The final decision on whether the circumstances justify the granting of a waiver shall be made at the sole discretion of the division board upon consideration of all relevant factors. Relevant factors to be considered are the unique circumstances set out in the application, presentations given before the board, the professional knowledge and expertise of the board members and division staff, and any other resources available to the entire division board. Consideration should be afforded to rulings on prior plant waiver requests, but the division board shall not be bound by such rulings.

~~c.~~—Within seven days of its issuance, any ruling issued under subrule 9.7(9) shall be transmitted to the applicant, the Iowa State Bar Association and the Iowa Land Title Association.

~~d.~~—The decision of the division board shall be final agency action and all appeals shall be filed with the Iowa District Court for Polk County.

~~9.7(10) Title plant certification.~~ For applicants granted a provisional waiver, an inspection of the title plant shall be performed by division staff or a designee of the title guaranty director. The inspection shall determine if the title plant meets the criteria set forth in paragraph 9.6(4) "a" and shall occur before the division board grants up-to-date title plant status to the applicant. If the applicant, following verification of up-to-date title plant status by the division board, proposes to conduct business under a name other than that of the entity to which the provisional waiver was granted, the applicant must obtain prior written approval to do so from the division. Any transfer of a title plant must be approved by division staff in order for the title plant to be a title guaranty abstractor.

~~9.7(11) Public availability.~~ Applications for waivers and rulings on waiver applications are public records under Iowa Code chapter 22. Some applications or rulings may contain information the division is authorized or required to keep confidential. Division staff may accordingly redact confidential information from applications or rulings prior to public inspection or dissemination.

~~9.7(12) Voiding or cancellation.~~ A waiver or variance is voidable if material facts upon which the petition is based are not true or if material facts have been withheld. A waiver or variance issued by the division board may be withdrawn, canceled, or modified if, after appropriate notice and meeting, the division board issues a ruling finding any of the following:

~~a.~~—That the petitioner or the applicant who was the subject of the waiver ruling withheld or misrepresented material facts relevant to the propriety or desirability of the waiver; or

~~b.~~—That the alternative search method assuring that the public interest will be adequately protected after issuance of the ruling has been demonstrated to be insufficient; or

~~c.~~—That the subject of the waiver ruling has failed to comply with all conditions contained in the ruling.

~~265—9.8(16) Title guaranty contracts, forms, manual, and staff supplements.~~ The division shall adopt and issue such contracts, forms, and the manual as the division deems necessary to set out standards and requirements, and such other matters that the division deems necessary for implementation and effective administration of the title guaranty program. The contents of the contracts, forms, and the manual shall be applicable to participants and independent closers in the title guaranty program.

~~9.8(1) Division board adoption.~~ The form of title guaranty commitments and certificates will be adopted, revised, or amended by resolution of the division board, and the form of such commitments

## IOWA FINANCE AUTHORITY[265](cont'd)

and certificates is subject to the approval of the authority board. The manual will be adopted, revised, or amended on approval of a majority vote of the division board.

*a.*—The division will inform the Iowa State Bar Association, the Iowa Land Title Association, and any person requesting such information of any proposed adoption of or change to the form of title guaranty commitments and certificates at least 30 days prior to the date of the division board meeting at which the matter will be considered.

*b.*—Interested parties may submit evidence or statements in support of or in opposition to the proposal in writing or by personal appearance before the division board.

**9.8(2) Division staff adoption.** Under the direction of the division director, the division staff shall adopt and issue staff supplements as the division deems necessary to set out standards and requirements of these rules, applicable statutes, and the manual; to address nonresidential, extraordinary and unusual risk situations; and to address such other matters that the division deems necessary for implementation and effective administration of the title guaranty program.

~~265—9.9(16) Mortgage release certificate.~~ Pursuant to Iowa Code section 16.92, the division is charged with the administration of a system, after notification to lenders, to clear paid-off mortgages from real estate titles in Iowa by executing and filing with county recorders release certificates for mortgages that have been paid in full.

**9.9(1) Definitions.** As used in this rule, unless the context otherwise requires:

“*Certificate*” means the certificate of release or partial release of mortgage issued by the division.

“*Claim for damages*” means a claim for actual money damages against the division caused by the division’s wrongfully or erroneously, through an act of negligence, filing a certificate while division staff are acting within the scope of their office or employment.

“*Effective release*” or “*satisfaction*” means a release or satisfaction of mortgage pursuant to Iowa Code chapter 655.

“*Mortgage*” means a mortgage or mortgage lien on an interest in real property in this state given to secure a loan in an original principal amount, including any future advances, equal to or less than:

1.—\$20 million for mortgages paid off by the division staff or a division closer within a division closing, unless prior written approval is obtained from the division director.

2.—\$1 million for all other mortgages.

“*Real estate lender or closer*” means a person licensed to regularly lend moneys to be secured by a mortgage on real property in this state, a licensed real estate broker, a licensed attorney, or a participating abstractor.

**9.9(2) Request for certificate.** Applications, forms, procedures and practices for the implementation of an effective mortgage release certificate by the division pursuant to Iowa Code section 16.92 shall be provided in the staff supplements. Further, any fee to be charged for the mortgage release application shall be set by the division board upon the recommendation of the division director.

**9.9(3) Authority to sign certificate.** The division director or designee of the division director may execute and record the certificates pursuant to Iowa Code section 16.92 and this rule.

**9.9(4) Additional remedies.** In addition to any other remedy provided by law, the division may recover from the real estate lender or closer who requested the certificate all expenses incurred, and all damages including punitive or exemplary damages paid to the mortgagee or mortgage service provider, in satisfaction or resolution of a claim for damages.

~~265—9.10(16) Rates.~~ The rate or fee, if any, for the owner’s guaranty, the lender’s guaranty, the various endorsements, and the closing protection letter will be fixed by the division board by resolution. In situations involving extraordinary risk, unusual transactions, or unique or multiple endorsements, the division, under the direction of the division director, may make additional charges that are added to and become part of the rate or fee. The rates or fees of any other products or services that will be offered by the division shall be set by the division board upon the recommendation of the division director.

A participant or independent closer shall calculate the title guaranty fees and premiums according to the applicable rate schedule in effect on the effective date of the commitment or the certificate, whichever

## IOWA FINANCE AUTHORITY[265](cont'd)

is earlier. A participant or independent closer shall collect the fee in effect for any other product or service offered by the division at the time the product or service is sold. Additional participant or independent closer responsibilities with regard to the collection and use of fees and premiums shall be set forth in the manual and staff supplements.

**265—9.11(16) Claims.**

**9.11(1) Definitions.** The following words and phrases, when used in this rule, shall have the meanings set forth below unless a meaning is inconsistent with the manifest intent or the context of a particular rule:

“*Claim*” means loss or damage or potential loss or damage arising by reason of a matter actually, possibly, or allegedly within the coverage of a commitment, certificate, closing protection letter, mortgage release certificate, or by reason of any other matter for which the division is actually, possibly, or allegedly liable.

“*Claim loss*” means amounts paid by the division in the investigation and resolution of a claim including, but not limited to, payments to the guaranteed, payments to adverse claimants, attorneys’ fees, and all other expenses and costs related to or arising from the claim in accordance with the provisions of this rule.

“*Party*” means a participant, independent closer, or any other person or entity that has a contractual relationship with the division to provide coverage or services for which a claim may be brought against the division.

**9.11(2) Claim procedures.** In the event of a claim, the rights of the division and a party are as follows:

*a.*—Upon receipt of notice by a party of a claim, the party must notify the division in writing within three business days of receipt of information about a claim by the party and shall mail notification to the division by first-class mail at the division’s address in subrule 9.4(1). In addition, if the nature of the claim is such that the guaranteed claimant or the division, or both, may suffer loss or damage that might be reduced or avoided by notice given more promptly than required by the preceding sentence, the party shall notify the division by telephone, facsimile transmission, overnight mail or other overnight delivery service, or any combination of these methods.

*b.*—When a party receives a request from the division for information with respect to a claim, the party shall supply to the division any documents, correspondence, surveys, abstracts of title, title searches, other writings, or other information known by or available to the party and relevant to the claim, even if not specifically requested by the division.

*c.*—A party shall cooperate fully in the investigation and resolution of a claim and shall supply any additional, new information that may come to the party’s attention with such promptness as the circumstances permit.

*d.*—The division may, with or without prior notice to the party or parties involved, investigate and resolve any claim in any manner that, in the division’s sole discretion, the division may deem advisable.

**9.11(3) Claim loss recovery:**

*a.*—Any claim losses paid are recoverable from a party by the division.

*b.*—In the absence of knowledge by the party about the title defect or other matter causing the claim loss, the division shall not seek recovery from the party when a claim loss arises from one or more of the following:

(1) Hidden defects, including, but not limited to, forged deeds and mortgages, false affidavits, and false statements of marital status;

(2) Errors by public officials in maintaining and indexing the public records, including, but not limited to, errors by county assessors, recorders, clerks, and treasurers;

(3) Errors in these rules, the manual, staff supplements, and any other written or oral instructions or requirements given by the division that the party relies upon in issuing an abstract of title, opinion, commitment, certificate, or endorsement;

(4) Errors in surveys provided by registered Iowa land surveyors that the party relies upon in giving survey coverage or issuing an endorsement or endorsements; or

## IOWA FINANCE AUTHORITY[265](cont'd)

~~(5) Underwriting determinations or title risks approved by the division prior to issuance of the abstract of title, opinion, commitment, certificate, or endorsement.~~

~~e. The party shall reimburse the division for a claim loss when the division determines, in accordance with 9.11(3)“d,” that the party is liable and when the claim loss arises from one or more of the following:~~

- ~~(1) Errors by the party in the title search and report of information in the public record;~~
- ~~(2) Reliance by the party upon sources of title searches and other title information that had not been approved by the division at the time of the reliance;~~
- ~~(3) Errors made by the party in examining the title information provided in an abstract of title, survey, affidavit, or other source of title information;~~
- ~~(4) Errors made by the party in the preparation or review of an abstract of title, opinion, commitment or certificate;~~
- ~~(5) Knowing issuance of an abstract of title, opinion, commitment or certificate by the party upon a defective title; or~~
- ~~(6) Failure of the party to follow these rules, the manual, staff supplements, or any other written or oral instructions or requirements given by the division with respect to any other matters not included within 9.11(3)“e.”~~

~~d. Unless another rule, the Code of Iowa, the manual, a procedure, or a guideline provides for a different standard of liability or other rule for determining whether the party shall be liable for a claim loss, the division shall apply the following standards:~~

~~(1) In the event that a claim loss occurs for which the division may seek recovery from the party under 9.11(3)“e”(1), the division may demand reimbursement from the party if the party was grossly negligent in conducting the title search. Gross negligence includes the failure to make a search or the use of inadequate search procedures. Gross negligence under the preceding sentence includes but is not limited to failure to search certain indices, failure to search all names of parties with an interest in the real estate, or failure to search in all public offices required by the division search procedures or procedures used by prudent title searchers if the division has not established specific search procedures. In making its determination whether to seek recovery, the division may consider the complexity of the public record, the reliance of the party upon division approved search procedures, the training and experience of the person who made the error, and the existence or nonexistence of previous search errors by the party.~~

~~(2) In the event that a claim loss occurs for which the division may seek recovery from a party under 9.11(3)“e”(2), the division may demand reimbursement from that party if the party relied upon sources of title searches or other title information that had not been approved by the division at the time of the reliance.~~

~~(3) In the event that a claim loss occurs for which the division may seek recovery from the party under 9.11(3)“e”(3), the division may demand reimbursement from the party if the party negligently examined the title information used in making a title determination, failed to raise an appropriate exception, waived an exception, or endorsed a title commitment or certificate.~~

~~1. The division may make full review of local county abstracting standards and bar title rules as a guide to determine whether the party has failed to meet the standard of skill and competence of an abstractor who prepares an abstract of title or an attorney who examines titles in the community where the claim arose.~~

~~2. The division may also consider whether the party followed these rules, the manual, staff supplements, or any other written or oral instructions or requirements given by the division in examining the title.~~

~~3. In addition, the division may seek input from other parties in the community in which the claim arose as to the standard of care of an abstractor who prepares an abstract of title or of an attorney who examines titles in that community.~~

~~(4) In the event that a claim loss occurs for which the division may seek recovery from the party under 9.11(3)“e”(4), the division may demand reimbursement from the party if the party negligently prepared and reviewed an abstract of title, opinion, commitment or certificate.~~

## IOWA FINANCE AUTHORITY[265](cont'd)

~~(5) In the event that a claim loss occurs for which the division may seek recovery from the party under 9.11(3)“e”(5), the division may demand reimbursement from the party if the issuance of the abstract of title, opinion, commitment or certificate constituted fraud, concealment or dishonesty, or if the issuance of the abstract of title, opinion, commitment or certificate was based upon an underwriting decision on an unusual risk that was made without contacting the division for approval.~~

~~(6) In the event that a claim loss occurs for which the division may seek recovery from the party under 9.11(3)“e”(6), the division may demand reimbursement from the party if the party failed to follow these rules, the manual, staff supplements, or any other written or oral instructions or requirements given by the division with respect to the matter causing the claim loss.~~

~~(7) In the event the division seeks reimbursement from a party, the division shall state the basis of the reimbursement.~~

~~e.—The division board may, from time to time by resolution, establish levels of authority, including dollar amounts, for the division board, the division director and the division staff for the settlement of claims made against the division.~~

~~**265—9.12(16) Rules of construction.** In the construction of this chapter, the following rules of construction shall be observed, unless either the rules of Iowa Code chapter 4, Construction of Statutes, or the following rules of construction are inconsistent with the manifest intent or the context of a rule:~~

~~1.—The word “shall” means mandatory and not permissive and the word “may” means permissive and not mandatory.~~

~~2.—The word “closing” includes, but is not limited to, the recording of a deed executed and delivered in lieu of a mortgage foreclosure or pursuant to a mortgage foreclosure proceeding and also includes the entry into a binding agreement and transfer of possession by a seller to a buyer on a contract sale of land.~~

~~3.—Nothing contained in this chapter shall be construed to require a participating attorney to disclose privileged information of a client to the division or to any other person.~~

~~4.—Any rule that provides a specific remedy or sanction for violation of the rule shall not be construed as limiting the ability of the division to pursue and enforce other penalties or sanctions under this chapter, or otherwise, against the participating abstractor, participating attorney, independent closer or other person responsible or liable, either separately, concurrently, cumulatively, or in any combination, at the sole discretion of the division.~~

~~5.—The failure of the division to enforce a right or remedy under this chapter, a statute, or common law shall not be construed as a waiver of such right or remedy either in the specific instance or in any other instance.~~

~~**265—9.13(16) Seal.** The division shall have a corporate seal that may be altered from time to time. The seal shall impress the words “Title Guaranty Division Iowa Finance Authority” and may be used to authenticate acts and legal instruments of the division.~~

~~**265—9.14(16) Rules of construction.** Rescinded IAB 1/13/10, effective 2/17/10.~~

~~**265—9.15(16) Implementation.** Rescinded IAB 1/13/10, effective 2/17/10.~~

~~**265—9.16(16) Forms, endorsements, and manuals.** Rescinded IAB 8/4/04, effective 9/8/04.~~

~~**265—9.17(16) Application for waiver of participation requirements.** Rescinded IAB 8/4/04, effective 9/8/04.~~

~~**265—9.18(16) Rates.** Rescinded IAB 8/4/04, effective 9/8/04.~~

~~**265—9.19(16) Charges.** Rescinded IAB 8/4/04, effective 9/8/04.~~

~~**265—9.20(16) Mortgage release certificate.** Rescinded IAB 1/13/10, effective 2/17/10.~~

IOWA FINANCE AUTHORITY[265](cont'd)

~~265—9.21(16) Seal.~~ Rescinded IAB 1/13/10, effective 2/17/10.

~~265—9.22(16) Closing protection letters.~~ Rescinded IAB 1/13/10, effective 2/17/10.

**265—9.1(16) Definitions.** The following words and phrases, when used in this chapter, shall have the meanings set forth below unless a meaning is inconsistent with the manifest intent or the context of a particular rule:

“Abstract” means a written or electronic summary of all matters of record affecting title to a specific parcel of real estate prepared in accordance with abstract minimum standards adopted by the division, provided however, that for nonpurchase transactions, “abstract” may also mean a written or electronic short-form summary setting forth the titleholders, liens, and encumbrances in accordance with guidelines adopted by the division.

“Authority” means the Iowa finance authority established by Iowa Code chapter 16.

“Certificate” means the form used to guarantee title, including any part or schedule thereof and any endorsements thereto.

“Claim” means loss or damage or potential loss or damage arising by reason of a matter actually, possibly, or allegedly within the coverage of a commitment, certificate, closing protection letter, mortgage release certificate, or by reason of any other matter for which the division is actually, possibly, or allegedly liable.

“Claim loss” means amounts paid by the division in the investigation and resolution of a claim including, but not limited to, payments to the guaranteed, payments to adverse claimants, attorneys’ fees, and all other expenses and costs related to or arising from the claim.

“Closing protection letter” means the division’s written agreement to indemnify a lender or borrower or both for loss caused by a participating closer’s theft of settlement funds or failure to comply with written closing instructions relating to title certificate coverage when agreed to by the participating closer.

“Commitment” means the division’s written offer to issue a certificate.

“Division” means Iowa title guaranty, a division of the Iowa finance authority.

“Division board” means the board of the division created pursuant to Iowa Code section 16.2A(1).

“Field issuer” means a participant authorized by the division to issue commitments and certificates.

“Mortgage release certificate” means a certificate of release or a certificate of partial release issued by the division, pursuant to Iowa Code section 16.92.

“Participant” means a participating attorney, a participating abstractor, or a participating closer.

“Participating abstractor” means a person who is authorized by the division to prepare abstracts for division purposes.

“Participating attorney” means an attorney licensed to practice law in the state of Iowa who is authorized by the division to prepare title opinions for division purposes.

“Participating closer” means any of the following authorized by the division to issue a closing protection letter: an Iowa licensed attorney disbursing funds through an interest on lawyer trust account, a closing agent licensed by the Iowa division of banking, or a real estate broker licensed by the Iowa real estate commission disbursing funds through a real estate trust account.

“Party” means a participant, or any other person, that has a contractual relationship with the division to provide services for which a claim may be brought against the division.

“Person” means an individual or legal entity, including corporation, limited liability company, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

**265—9.2(16) Purpose.** This chapter describes the mission, organization, programs and operations of the division, including the office where and the means by which a person may obtain information and make submissions or requests.

**265—9.3(16) Mission.** The mission of the division is to operate a program that offers guaranties of real property titles in order to provide, as an adjunct to the abstract-attorney’s title opinion system, a low-cost

IOWA FINANCE AUTHORITY[265](cont'd)

mechanism to facilitate mortgage lenders' participation in the secondary market and add to the integrity of the land-title transfer system in the state of Iowa and to perform other duties as assigned by Iowa law. Surplus funds generated by the division shall be transferred to the authority's housing assistance fund after providing for adequate reserves and for the operating expenses of the division.

**265—9.4(16) Organization.**

9.4(1) Location. The office of the division is located at 2015 Grand Avenue, Des Moines, Iowa 50312. Office hours are 8 a.m. to 4:30 p.m. Monday through Friday, excluding legal holidays. The division's Web-site address is [www.iowatitleguaranty.gov](http://www.iowatitleguaranty.gov) and the division's telephone and facsimile numbers are as follows: (515)725-4900 (general telephone number); 1-800-432-7230 (toll-free telephone number); and (515)725-4901 (facsimile). The division's e-mail address is [titleguaranty@iowa.gov](mailto:titleguaranty@iowa.gov). Inquiries, submissions, applications and other requests for information may be directed to the division at the address set forth herein. Requests may be made personally or by telephone, fax, mail or e-mail.

9.4(2) Division board. A chair and vice chair shall be elected annually by the members of the division board at the first quarterly meeting following July 1 of each year, which is the beginning of the division's fiscal year.

9.4(3) Meetings. Meetings of the division board shall generally be held quarterly on the date and time determined by the division board. Meetings of the division board may also be held at the call of the chair or on written request of two division board members. The division will give advance public notice of the specific date, time and place of each division board meeting. At least 24 hours before commencement of a division board meeting, the division will post the tentative agenda at the office of the division and on the division's Web site. Division board meetings may be conducted by conference call. Any person may attend and observe division board meetings except for any portion of a division board meeting that may be closed pursuant to Iowa Code section 21.5. The minutes of the division board meetings are available at the office of the division and on the division's Web site. Three members of the division board constitute a quorum. An affirmative vote of a majority of the division board members is necessary for any substantive action taken by the division board. The majority shall not include any division board member who has a conflict of interest, and a statement of a conflict of interest shall be conclusive for this purpose.

**265—9.5(16) Operation.** The division offers guaranties of real property titles in the state through the issuance of commitments and certificates.

9.5(1) Commitments, certificates, forms and manuals. The terms, conditions, and form of commitments and certificates shall be approved by the division board. The division may adopt and use manuals and other forms as the division deems necessary for implementation and administration of the title guaranty program.

a. The division will provide forms to a participant for use in issuing commitments and certificates on behalf of the division. A participant may not alter any form supplied by the division or use a form supplied by another person to bind the division. In addition, the participant shall not transfer or attempt to transfer unissued commitments or certificates to another participant or other person unless authorized in writing by the division.

b. If a participant fails to comply with the requirements of this rule, in addition to the division's other rights and remedies, the division may refuse to allow the participant access to any forms until the participant complies with the requirements of this chapter to the satisfaction of the division.

c. A participant shall be liable to the division for loss or damage sustained by the division by reason of the loss of, misuse of, or inability of the participant to account for any form supplied by the division, or the failure of the participant to comply with the requirements of this rule.

9.5(2) Application for commitments and certificates. The division shall make an application for commitments and certificates available at the office of the division and on the division's Web site.

9.5(3) Rates. The division shall set the rates for certificates and closing protection letters in an amount sufficient to permit the title guaranty program to operate on a self-sustaining basis, including

## IOWA FINANCE AUTHORITY[265](cont'd)

payment of administrative costs and the maintenance of an adequate reserve against claims. In transactions involving extraordinary risk or unusual or unique endorsements, the division may charge additional fees.

**265—9.6(16) Participants.**

9.6(1) General provisions. An applicant shall submit a participant application and the first year's annual fee and shall sign a participation agreement in order to be authorized to provide one or more services on behalf of the division.

9.6(2) Participant application. Applications for participation and renewal are available on the division's Web site. An applicant shall submit an application to provide one or more services on behalf of the division. If the applicant is approved as a participant, the participant is required to submit a renewal application annually.

9.6(3) Participation agreement. The participation agreement sets forth the contractual relationship between the participant and the division. A new participation agreement is executed annually and when otherwise required by the division.

9.6(4) Annual fee. A participant may be required to pay an annual fee to be eligible to participate in the title guaranty program. The fee, if any, shall be set by the division.

9.6(5) Liability insurance. A participant shall maintain liability insurance at all times while acting as an agent of the division, with such coverage and in such amounts as the division may determine.

9.6(6) Agent relationship. A participant is only authorized to act as an agent of the division for the purposes and in the manner set forth in the participant's participation agreement, the Code of Iowa, these rules, manuals and any other written or oral instructions given by the division. The authority of a participant to act as an agent of the division is not exclusive and is subject to the rights of the authority, the division, and other participants, agents, or representatives of the division.

9.6(7) Conflict of interest. A participant shall not, without prior authorization of the division, prepare an abstract or issue a title opinion, commitment, certificate, or closing protection letter for a transaction in which the participant has a personal or financial interest in the real estate that is the subject of that transaction.

9.6(8) Clearance of title objections. All title objections must be cleared in accordance with applicable division manuals and any other written or oral instructions given by the division prior to the issuance of a certificate. Any underwriting determination about which there may be a bona fide difference of opinion among attorneys, which is not specifically addressed by division manuals or instructions, shall be approved by the division in writing.

9.6(9) Commitment and certificate coverage limitations. A field issuer shall obtain written authorization from the division prior to issuing a commitment or certificate that exceeds the allowable maximum amount of coverage, as determined by the division. If authorization required under this subrule is not obtained through the act or omission of the field issuer, the field issuer shall be strictly liable to the division for any loss or damage resulting from issuance of the commitment or certificate.

9.6(10) Document retention. A participant shall maintain transaction files in such a manner that information pertaining to activities of the participant is readily available to the division while protecting confidential client information. A participant shall retain files for a period of ten years after the effective date of the certificate or the effective date of the commitment if a certificate is not issued. A participating abstractor shall retain a written or electronic copy of each abstract prepared for division purposes and shall provide a copy to the division upon request.

9.6(11) Training. The division may require a participant and the participant's staff, as a condition of participation, to participate in training sessions or continuing education seminars as deemed necessary by the division in order to ensure compliance with division requirements and procedures.

9.6(12) Compliance. Participants shall comply with the Code of Iowa, these rules, the participation agreement, manuals, and any other written or oral instructions given by the division. The division may audit the participant, with or without notice, for verification of compliance. An audit may include, but not be limited to, a review of the participant's commitment and certificate issuance procedures, a test of title plants and tract indices, and a review of closing policies and procedures and escrow account details.

IOWA FINANCE AUTHORITY[265](cont'd)

An inspection of a title plant may be performed by the division or its designee to determine if the title plant meets the criteria set forth in paragraph 9.7(1) "a."

**9.6(13) Revocation.** The division has discretion to revoke a participant's authorization to provide services on behalf of the division for reasons including, but not limited to, the following:

- a. Failure to comply with the terms and conditions of the participation agreement.
- b. Failure to submit an annual renewal application.
- c. Knowingly withholding or misrepresenting material facts relied upon by the division.
- d. Fraud, theft, dishonesty, or misappropriation of funds or documents.
- e. Deterioration of the participant's financial condition adversely affecting the participant's ability to provide services on behalf of the division.
- f. A complaint or claim demonstrating material noncompliance with the Code of Iowa, these rules, manuals, and any other written or oral instructions given the division.
- g. Other factors as determined by the division.

**265—9.7(16) Services offered.**

**9.7(1) Abstracting.** Abstracts utilized for division purposes must be prepared by a participating abstractor.

a. *Title plant.* A participating abstractor shall own and maintain, or lease and use, a title plant including tract indices for each county in which that participating abstractor prepares abstracts for division purposes, unless exempt under paragraph 9.7(1) "c" or authorized under paragraph 9.7(1) "d." Each of the tract indices shall be designated to encompass a geographical area of not more than one block in the case of platted real estate, nor more than one section in the case of unplatted real estate. The tract indices shall include a reference to all of the instruments affecting real estate recorded in the office of the county recorder, and the tract indices shall commence not less than 40 years prior to the effective date of the abstractor's participation in the title guaranty program. A government-maintained and -controlled database is not considered a title plant for division purposes.

b. *Intent to build title plant.* The division may authorize an abstractor that is building or that intends to build a title plant to prepare abstracts for use by the division, upon review of the following:

- (1) The abstractor's business plan;
- (2) Evidence that a title plant will be built for a specific county or counties within three years;
- (3) A time line for completion of the title plant; and
- (4) A description of the applicant's abstracting experience.

c. *Grandfathered attorney.* A participating attorney who has provided abstracts continuously from November 12, 1986, to the date of application to provide abstracts for division purposes, either personally or through persons under the participating attorney's supervision and control, shall be exempt from the requirements to own or lease a title plant. This exemption is unique to the participating attorney, is nontransferable, and terminates at such time as the participating attorney ceases providing abstracts for division purposes or upon the death or incapacity of the participating attorney.

d. *Title plant waivers.* The division recognizes the 40-year title plant as the preferred method of providing title evidence for the purpose of issuing commitments and certificates. The division must weigh the benefits of the traditional title plant with other alternatives to ensure buyers and lenders high quality of certificates throughout the state, rapid service, and a competitive price. Iowa Code section 16.91(5) "b" allows the division board to waive the up-to-date title plant requirements under certain conditions.

(1) General provisions. The division board shall consider an application for a title plant waiver upon submission by an attorney or an abstractor.

(2) Submission of application. The division shall provide an application form at the office of the division and on the division's Web site. An applicant must submit an application in writing to the attention of the division director at the office of the division.

- (3) Content of application. The applicant must provide, at a minimum, the following information:
- 1. The name, business address, e-mail address, and telephone number of the applicant;
  - 2. The applicant's business plan;

## IOWA FINANCE AUTHORITY[265](cont'd)

3. The county or counties in which the applicant intends to abstract;
4. A description of the applicant's abstracting experience;
5. Samples of abstracts prepared by the applicant;
6. A history of any professional disciplinary action against the applicant;
7. Professional references in support of the applicant;
8. The relevant facts that the applicant believes would justify a waiver under 9.7(1) "d"(5) and 9.7(1) "d"(6) "4"; and
9. A signed statement from the applicant attesting to the accuracy of the facts provided in the application.

(4) Notification and response.

1. The division shall notify the applicant upon receipt of a complete application.
2. The division shall publish notice of an application on the division's Web site within 7 calendar days of receipt of a complete application. A copy of the application and supporting documents will be provided to any interested person upon request.

3. The Iowa State Bar Association and Iowa Land Title Association shall be provided notice of an application. Provision of the notice to the identified associations is not a requirement for the division board to consider the application, and failure to inform an interested person of an application shall not void or otherwise nullify any action or decision of the division board.

4. If a complete application is received at least 90 days prior to the next scheduled division board meeting, the application shall be placed on the agenda for that division board meeting. The division shall receive public comments up to 45 calendar days prior to that division board meeting.

(5) Criteria for title plant waiver. Pursuant to Iowa Code section 16.91(5) "b," the division board may issue a ruling waiving the title plant requirement set forth in Iowa Code section 16.91(5) "a"(2) if the board finds the following:

1. The title plant requirement imposes a hardship to the applicant; and
2. The waiver is:
  - Clearly in the public interest; or
  - Absolutely necessary to ensure availability of certificates throughout the state.
3. For purposes of paragraph 9.7(1) "d," "hardship" means deprivation, suffering, adversity, or long-term adverse financial impact in complying with the title plant requirement that is more than minimal when considering all the circumstances.

4. For purposes of paragraph 9.7(1) "d," "public interest" means that which is beneficial to the public as a whole, including but not limited to increasing competition among abstractors, encouraging the use of certificates throughout the state, making certificates more competitive than out-of-state title insurance, increasing the division's market share, improving the quality of land titles, and protecting consumers.

(6) Board meeting and ruling.

1. The review of a waiver application is not a contested case proceeding.
2. The division director or designee shall review an application and its supporting documentation. The division director shall present to the division board a proposed written ruling. The division board shall adopt, amend or reject the proposed written ruling. If the proposed written ruling is rejected, the division board shall instruct the division director to prepare an alternative written ruling to be considered at a subsequent division board meeting.

3. The written ruling shall summarize the relevant facts and the basis for granting or denying the waiver. The written ruling may specify the scope and duration of the waiver and any restrictions, conditions, or requirements.

4. The final decision on whether the circumstances justify the granting of a waiver shall be made at the sole discretion of the division board upon consideration of all relevant factors. Relevant factors to be considered include, but are not limited to, the division director's proposed written ruling, the facts and circumstances set out in the application, any history of professional disciplinary action against the applicant, adverse claims made against the applicant, prior waiver withdrawal actions against the applicant, public comments, the professional knowledge and expertise of the board members and division

## IOWA FINANCE AUTHORITY[265](cont'd)

staff, and any other resources available to the entire division board. Consideration should be afforded to rulings on prior waiver requests, but the division board shall not be bound by such rulings. The division board may limit a waiver as to county, or transaction type, or both.

5. The written ruling shall be mailed to the applicant within 7 days of its issuance.

6. The decision of the division board shall be final agency action, and all appeals shall be filed with the Iowa District Court for Polk County.

(7) Conditions. A waiver is unique to the recipient and is nontransferable. A waiver recipient shall be accountable to the division for abstracts prepared for division purposes. The division may require a waiver recipient to provide a guarantee, performance bond, or other form of indemnification, as assurance for abstracts prepared by the waiver recipient on behalf of the division. The division may review the waiver recipient annually and may require a renewal, modification or addition to any required assurances. Retention of a waiver is dependent on the applicant's meeting the requirements for a participant in rule 265—9.6(16). If the waiver recipient fails to meet the terms of the recipient's participation agreement, the waiver may be withdrawn by the division board.

(8) Withdrawal of a waiver. A waiver issued by the division board may be withdrawn or modified if, after public notice and division board meeting, the division board issues a written ruling finding any of the following:

1. That the waiver recipient knowingly withheld or misrepresented material facts relied upon by the division board in granting the waiver; or

2. That the waiver recipient failed to comply with all conditions contained in the written ruling; or

3. That the abstracts prepared by the waiver recipient fail to meet the abstract minimum standards adopted by the division.

The decision of the division board shall be final agency action, and all appeals shall be filed with the Iowa District Court for Polk County.

(9) Public availability. Applications for waivers and written rulings are public records under Iowa Code chapter 22. Some applications or written rulings may contain information that the division is authorized or required to keep confidential. The division may redact confidential information from applications or written rulings prior to public inspection or dissemination.

**9.7(2) Issuing title opinions.**

a. All title opinions shall be prepared by participating attorneys and issued in compliance with division procedures as specified in manuals and any other written or oral instructions given by the division.

b. A participating attorney who is a field issuer may issue a commitment as the preliminary title opinion and the certificate as the final title opinion.

c. A participating attorney shall be licensed to practice law in the state of Iowa and shall be in good standing with the Iowa supreme court at all times while acting as an agent of the division.

**9.7(3) Issuing commitments and certificates.** Pursuant to a participation agreement with the division, a participant may be authorized to issue a commitment or certificate on behalf of the division. A participant's right to issue commitments and certificates is a privilege for the convenience of the division and may be terminated pursuant to terms of the participation agreement.

**9.7(4) Issuing closing protection letters.** Pursuant to a participation agreement with the division, a participant may be authorized to issue a closing protection letter on behalf of the division.

a. Eligibility considerations. In determining whether to approve or deny a participating closer application, the division may consider the following, including but not limited to:

(1) The needs of the public and the needs of existing or potential customers of the applicant.

(2) A history of the operation and management of the applicant's business.

(3) The character, fitness, financial responsibility and experience of the applicant and the applicant's employees.

(4) A credit report or criminal background check of the applicant or the applicant's employees.

(5) A record of default in the payment of moneys collected for others by the applicant or the applicant's employees.

## IOWA FINANCE AUTHORITY[265](cont'd)

(6) A history of discharge of debts by the applicant or the applicant's employees through bankruptcy proceedings.

(7) Compliance with the "Title Insurance and Settlement Company Best Practices" set forth by the American Land Title Association.

(8) Other factors as determined by the division.

b. Escrow account. The division may require the participating closer to provide an irrevocable letter of direction to the institution at which each escrow account is established, authorizing the division to review and audit the institution's records of such account at any time that the division, in its discretion, deems necessary.

**265—9.8(16) Claims.**

9.8(1) Claim procedures. In the event of a claim, the rights of the division and a party are as follows:

a. Upon receipt of notice by a party of a claim, the party must notify the division in writing within three business days of receipt of information about a claim by the party and shall mail notification to the division by first-class mail at the division's address as set forth in subrule 9.4(1). In addition, if the nature of the claim is such that the guaranteed claimant or the division, or both, may suffer loss or damage that might be reduced or avoided by notice given more promptly than required by the preceding sentence, the party shall notify the division by telephone, facsimile transmission, e-mail, overnight mail or other overnight delivery service, or any combination of these methods.

b. When a party receives a request from the division for information with respect to a claim, the party shall supply to the division any documents, correspondence, surveys, abstracts of title, title searches, other writings, or other information known by or available to the party and relevant to the claim, even if not specifically requested by the division.

c. A party shall cooperate fully in the investigation and resolution of a claim and shall supply any additional, new information that may come to the party's attention with such promptness as the circumstances permit.

d. The division may, with or without prior notice to the party or parties involved, investigate and resolve any claim in any manner that, in the division's sole discretion, the division may deem advisable.

9.8(2) Claim loss recovery.

a. Any claim losses paid are recoverable from a party by the division.

b. In the absence of knowledge by the party about the title defect or other matter causing the claim loss, the division shall not seek recovery from the party when a claim loss arises from one or more of the following:

(1) Hidden defects, including, but not limited to, forged deeds and mortgages, false affidavits, and false statements of marital status;

(2) Errors by public officials in maintaining and indexing the public records, including, but not limited to, errors by county assessors, recorders, clerks, and treasurers;

(3) Errors in these rules, manuals, and any other written or oral instructions given by the division that the party relies upon in issuing an abstract, title opinion, commitment or certificate;

(4) Errors in surveys provided by registered Iowa land surveyors that the party relies upon in issuing a certificate that provides survey coverage; or

(5) Underwriting determinations or title risks approved by the division prior to issuance of the abstract, title opinion, commitment, or certificate.

c. The party shall reimburse the division for a claim loss when the division determines, in accordance with paragraph 9.8(2) "d," that the party is liable and when the claim loss arises from one or more of the following:

(1) Errors by the party in the preparation of an abstract or any other report of information in the public record;

(2) Reliance by the party upon sources of title searches and other title information that had not been approved by the division at the time of the reliance;

(3) Errors made by the party in examining the title information provided in an abstract, survey, affidavit, or other source of title information;

## IOWA FINANCE AUTHORITY[265](cont'd)

(4) Errors made by the party in the preparation or review of an abstract, title opinion, commitment or certificate;

(5) Issuance of an abstract, title opinion, commitment or certificate by the party with knowledge that title is defective; or

(6) Failure of the party to follow the Code of Iowa, these rules, manuals, or any other written or oral instructions given by the division.

d. Unless another rule, the Code of Iowa, manuals, or any other written or oral instruction given by the division provides for a different standard of liability or other rule for determining whether the party shall be liable for a claim loss, the division shall apply the following standards:

(1) In the event that a claim loss occurs for which the division may seek recovery from the party under subparagraph 9.8(2) "c"(1), the division may demand reimbursement from the party if the party was grossly negligent in preparing the abstract. Gross negligence includes the failure to make a search or the use of inadequate search procedures. Gross negligence under the preceding sentence includes but is not limited to failure to search certain indices, failure to search all names of parties with an interest in the real estate, or failure to search in all public offices required by the division search procedures or procedures used by prudent title searchers if the division has not established specific search procedures. In making its determination whether to seek recovery, the division may consider the complexity of the public record, the reliance of the party upon division-approved search procedures, the training and experience of the person who made the error, and the existence or nonexistence of previous search errors by the party.

(2) In the event that a claim loss occurs for which the division may seek recovery from a party under subparagraph 9.8(2) "c"(2), the division may demand reimbursement from that party if the party relied upon sources of abstracts or other title information that had not been approved by the division at the time of the reliance.

(3) In the event that a claim loss occurs for which the division may seek recovery from the party under subparagraph 9.8(2) "c"(3), the division may demand reimbursement from the party if the party negligently examined the title information used in making a title determination, failed to raise an appropriate exception, waived an exception, or endorsed a commitment or certificate.

1. The division may make full review of local county abstracting standards and bar title rules as a guide to determine whether the party has failed to meet the standard of skill and competence of an abstractor who prepares an abstract or an attorney who examines titles in the community where the claim arose.

2. The division may also consider whether the party followed the Code of Iowa, these rules, manuals, or any other written or oral instructions given by the division in examining the title.

3. In addition, the division may seek input from other parties in the community in which the claim arose as to the standard of care of an abstractor who prepares an abstract or of an attorney who examines titles in that community.

(4) In the event that a claim loss occurs for which the division may seek recovery from the party under subparagraph 9.8(2) "c"(4), the division may demand reimbursement from the party if the party negligently prepared or reviewed an abstract, title opinion, commitment or certificate.

(5) In the event that a claim loss occurs for which the division may seek recovery from the party under subparagraph 9.8(2) "c"(5), the division may demand reimbursement from the party if the issuance of the abstract, title opinion, commitment or certificate constituted fraud, concealment or dishonesty, or if the issuance of the abstract, title opinion, commitment or certificate was based upon an underwriting decision on an unusual risk that was made without contacting the division for approval.

(6) In the event that a claim loss occurs for which the division may seek recovery from the party under subparagraph 9.8(2) "c"(6), the division may demand reimbursement from the party if the party failed to follow the Code of Iowa, these rules, manuals, or any other written or oral instructions given by the division with respect to the matter causing the claim loss.

(7) In the event the division seeks reimbursement from a party, the division shall state the basis of the reimbursement.

## IOWA FINANCE AUTHORITY[265](cont'd)

e. The division board may establish levels of authority, including dollar amounts, for the division for the settlement of claims made against the division.

**265—9.9(16) Mortgage release certificate.** Pursuant to Iowa Code section 16.92, the division is charged with the administration of a program to release, after proper notification, paid-off mortgages from real estate titles in Iowa by executing and filing with the county recorder a mortgage release certificate.

**9.9(1) Application.** The division shall provide a mortgage release application at the office of the division and on the division's Web site. The following may submit an application for a mortgage release certificate:

a. A person authorized to regularly lend moneys to be secured by a mortgage on real property in Iowa.

b. A licensed real estate broker.

c. A licensed attorney.

d. A participating abstractor.

e. A licensed closing agent.

**9.9(2) Application fee.** An applicant may be required to pay a fee to apply for a mortgage release certificate. The fee shall be set by the division.

**9.9(3) Maximum principal amount of mortgage.** The division board may set a maximum principal amount for mortgages that may be released by a mortgage release certificate.

**9.9(4) Authority to sign certificate.** A mortgage release certificate shall be executed by the division director or designee of the division director.

**265—9.10(16) Rules of construction.** In this chapter, the following rules of construction shall be observed:

1. The word "shall" means mandatory and not permissive and the word "may" means permissive and not mandatory.

2. Nothing contained in this chapter shall be construed to require a participating attorney to disclose privileged information of a client to the division or to any other person.

3. Any rule that provides a specific remedy or sanction for violation of the rule shall not be construed as limiting the ability of the division to pursue and enforce other remedies or sanctions under this chapter, or otherwise against a participant or other person responsible or liable, either separately, concurrently, cumulatively, or in any combination, at the sole discretion of the division.

4. The failure of the division to enforce a right or remedy under this chapter, a statute, or common law shall not be construed as a waiver of such right or remedy either in the specific instance or in any other instance.

**265—9.11(16) Seal.** The division shall have a corporate seal that may be altered by the division from time to time.

These rules are intended to implement Iowa Code sections 16.2A, 16.4C, 16.5, 16.90 to 16.94, 17A.3, 17A.9, 17A.10; and 535.8(10), 2007 Iowa Code Supplement sections 16.1, 16.2, 16.3, 16.5, 16.40, and 16.91, and Iowa Code section 16.93 as amended by 2008 Iowa Acts, Senate File 2117.

## ARC 2127C

## IOWA FINANCE AUTHORITY[265]

## Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 17A.3(1)“b” and 16.5(1)“r,” the Iowa Finance Authority proposes to amend Chapter 44, “Iowa Agricultural Development Division,” Iowa Administrative Code.

The purpose of these amendments is to clarify the rules and to simplify and streamline the processes addressed therein.

The Authority does not intend to grant waivers under the provisions of these rules, other than as may be allowed under the Authority’s general rules concerning waivers.

The Authority will receive written comments on the proposed amendments until 4:30 p.m. on September 22, 2015. Comments may be addressed to Mark Thompson, Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312. Comments may also be faxed to Mark Thompson at (515)725-4901 or e-mailed to [mark.thompson@iowa.gov](mailto:mark.thompson@iowa.gov).

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

These amendments are intended to implement Iowa Code sections 16.5D, 16.75, 16.78, 16.81, and 16.83.

The following amendments are proposed.

ITEM 1. Amend the following definitions in rule ~~265—44.2(16)~~:

“*BFCF eligible applicant*” means an individual, partnership, family farm corporation or family farm limited liability company that has a net worth of not more than the maximum allowable net worth. The applicant must also satisfy all of the criteria contained in Iowa Code sections 16.79 and 16.81 and the provisions of these rules relating to recipient eligibility ~~as they relate to who operates or will operate a farm.~~

“*BFLP eligible applicant*” means an individual who has a net worth of not more than the maximum allowable net worth. The applicant must also be a beginning farmer, as defined in Iowa Code section 16.75, who satisfies all of the criteria contained in the Act and provisions of these rules relating to recipient eligibility ~~as they relate to who operates or will operate a farm.~~

“*BFTC eligible applicant*” means an individual, partnership, family farm corporation or family farm limited liability company that has a net worth of not more than the maximum allowable net worth. The applicant must also satisfy all of the criteria contained in Iowa Code sections 16.79 and 16.80 and the provisions of these rules relating to recipient eligibility ~~as they relate to who operates or will operate a farm.~~

“*Commodity share basis*” means an agreement whereby operation of the agricultural asset is transferred via a risk-sharing mechanism, whereby the agricultural asset owner receives a portion of the production ~~and~~ as payment for use of the agricultural asset.

“*Custom farming contract*” means any commonly accepted written contract which specifies the terms of the work to be performed by the beginning farmer for an Iowa landowner or tenant or livestock owner. The contract must provide for the production of crops or livestock located on agricultural land. The taxpayer will pay the BFCF eligible applicant on a cash basis, and the total amount paid for each tax year that the tax credit is claimed must equal at least \$1,000. The contract must be in writing for a term of not more than ~~12~~ 24 months. A contract is not allowed if the taxpayer and BFCF eligible applicant are: persons who hold a legal or equitable interest in the same agricultural land or livestock; related family

## IOWA FINANCE AUTHORITY[265](cont'd)

members, such as spouse, child, stepchild, brother, or sister; or partners in the same partnership which holds a legal or equitable interest.

*“LPP eligible applicant”* means an individual who has a net worth of not more than the maximum allowable net worth. The applicant must be a low-income farmer who cannot obtain financing to purchase agricultural property without the assistance of an LPP loan and who satisfies all of the criteria contained in the Act and the provisions of these rules relating to recipient eligibility as they relate to who operates or will operate a farm.

*“Projected gross income”* means the total of all nonfarm income plus gross farm revenues which include revenue from cash sales, inventory and receivable charges, crops, livestock products, government program payments, and other farm income received by the borrower during the next calendar year.

*“Term debt coverage ratio”* means the total of net farm income from operations plus total nonfarm income plus depreciation/amortization expense plus interest on term debt plus interest on capital leases minus total income tax expense minus withdrawals for family living multiplied by 100 and divided by the sum of annual scheduled principal and interest payments on term debt and the annual scheduled principal and interest payments on capital leases. The ratio provides a measure of the ability of the borrower to cover all term debt and capital lease payments. The greater the ratio over 100 percent, the greater the margin to cover the payments.

ITEM 2. Amend subrule 44.4(2) as follows:

**44.4(2) Application procedures.** The BFLP eligible applicant may apply for a BFLP loan with any bond purchaser. Any BFLP loan approved will be assigned to that bond purchaser. BFLP loan eligibility is determined by the requirements of the Act and the rules of the authority.

a. to d. No change.

e. ~~Following approval and issuance of the bond, the authority will enter into a loan agreement with the BFLP eligible applicant and then assign the BFLP loan without recourse to the bond purchaser.~~ The authority may charge fees as needed to defray its costs for processing the BFLP loan and bond.

ITEM 3. Amend subrule 44.4(6) as follows:

**44.4(6) Assignment of BFLP loans by bond purchasers.** A bond purchaser may assign a BFLP loan in whole or in part to any person, as defined in Iowa Code section 4.1(20). Serving Servicing of the BFLP loan may also be assigned. The authority must be notified in writing prior to assignment of the BFLP loan.

ITEM 4. Amend subrule 44.5(3) as follows:

**44.5(3) Eligible projects and activities.**

a. to e. No change.

f. *Interim financing by lender.* Interim financing by the lender ~~may be done~~ is allowed.

ITEM 5. Amend subrule 44.5(5) as follows:

**44.5(5) Program parameters.**

a. *Purchase price impact.* Maximum LPP loan amount ~~is the lesser of:~~ and loan terms will be determined by the IADD board.

(1) ~~Thirty percent of the purchase price; or~~

(2) ~~\$150,000.~~

b. ~~LPP loan terms.~~ The authority has established the following with respect to LPP loan terms:

(1) ~~The maximum amortization period for the LPP loan is 7 years for depreciable agricultural property. When a participated loan is made for livestock, the length of the LPP loan is restricted to the expected useful life of the animal being purchased.~~

(2) ~~LPP loan payments on participated real estate loans will be equally amortized for the term of the LPP loan, but shall not exceed a 20-year amortization, including a 10-year term with balloon payment and the balance of the LPP loan paid in full by the end of the tenth year. If utilized in conjunction with federal programs, the amortization will be consistent with federal rules.~~

(3) ~~b.~~ LPP interest rate. The IADD board will set the interest rate on the LPP loan.

## IOWA FINANCE AUTHORITY[265](cont'd)

*c. LPP loans outstanding.* Loans under the program may be issued more than once, provided that the outstanding LPP loan totals do not exceed \$150,000 to any single borrower the maximum amount set by the IADD board.

ITEM 6. Amend subrule 44.5(6) as follows:

**44.5(6) LPP loan application procedures.**

*a. Financial statement.* Lenders may use their own form of financial statement ~~and.~~ The authority may require other forms deemed necessary and appropriate to document the eligibility of the borrower and the borrower's ability to make principal and interest payments. A copy of the borrower's most current financial statement (generally prepared one month preceding application submission), the prior two years' financial statements, and a projected after-closing financial statement must be submitted with the application.

If the borrower or the borrower's spouse is involved in a business, partnership, limited liability company, or corporation, either related or unrelated to the borrower's farming operation, a financial statement from this entity must also be submitted with the application.

*b. and c.* No change.

*d. Credit evaluation.* The lender will submit a credit evaluation of the project for which an LPP loan is sought. The lender will evaluate the borrower's net worth and ability to pay principal and interest and certify the sufficiency of security for the participated loan. The authority will review the application and make its own credit evaluation prior to issuance of an LPP loan. ~~Such evaluation will center on whether:~~

~~(1) The borrower adequately demonstrates the ability to service the debt requirements of the participated loan based on cash flow, net worth, down payment, and collateral pledged for the participated loan.~~

~~(2) The borrower provides sufficient collateral to adequately secure the participated loan and keep the participated loan collateralized throughout its term.~~

~~(3) The lender certifies that all of the borrower's debts will be current at the time the participated loan is closed.~~

~~(4) The applicant is a low income farmer who cannot obtain financing to purchase agricultural property without the assistance of an LPP loan with the authority.~~

~~(5) The lender certifies that no other private or state credit is available or can be obtained in a timely manner.~~

*e. to g.* No change.

ITEM 7. Amend subrule 44.6(2) as follows:

**44.6(2) Application procedures.**

*a.* No change.

*b.* Each application shall include, but not be limited to, the following:

(1) Taxpayer information: name and address, e-mail address if available, social security number, length of the lease, type of lease, and location of the agricultural asset to be leased. In addition, the application shall have attached to it a copy of the lease agreement between the parties.

(2) BFTC eligible applicant information: name and address, e-mail address if available, ~~social security number,~~ and location of the asset to be leased. In addition, the application shall have attached to it a copy of the BFTC eligible applicant's most recent financial statement (generally prepared one month preceding application submission). The application will also include a background letter on the BFTC eligible applicant documenting to the satisfaction of the authority sufficient training, experience and access to capital. This letter may be submitted by one or more of the following: the BFTC eligible applicant, the taxpayer or another third party.

*c.* Complete applications shall be processed in the order they are received by the authority.

ITEM 8. Amend subrule 44.6(3) as follows:

**44.6(3) Execution of an agricultural assets transfer agreement.** In addition to the requirements of rule 265—44.6(16), both the taxpayer and the BFTC eligible applicant shall execute an agricultural assets

## IOWA FINANCE AUTHORITY[265](cont'd)

transfer agreement. ~~This form shall be in a format~~ The form used by the Iowa State Bar Association or other shall be a commonly accepted form and signed by all parties.

ITEM 9. Amend subrule 44.6(4) as follows:

**44.6(4) Procedures following tax credit approval.** Either the BFTC eligible applicant or the taxpayer shall immediately notify the authority of any material changes in the agricultural assets transfer agreement. Written approval from the authority is required if the change impacts the amount of the tax credit awarded. The authority shall act upon these changes pursuant to Iowa Code section 16.80. ~~Material changes cannot result in an increase in the original tax credit amount approved.~~

ITEM 10. Amend rule 265—44.7(16) as follows:

**265—44.7(16) Beginning farmer custom farming tax credit program.**

**44.7(1) General provisions.**

*a. Term.* The term of the credit shall not exceed ~~one year~~ the term of the contract, except that any unused credit may be carried forward for a period of ten years if unused in the tax year the credits are earned. Credits may not be carried back to past tax years.

*b. Fees.* The authority may charge reasonable and necessary fees to defray the costs of this program.

*c. Expiration of custom hire contract.* The BFCF eligible applicant will continue to be eligible during the ~~year~~ years of the custom farming contract. Upon expiration of the contract, both the taxpayer and BFCF eligible applicant must reapply to qualify for subsequent tax credits.

**44.7(2) Application procedures.**

*a.* The authority shall prepare and make available appropriate forms to be used in making application for the tax credit, including forms for both the taxpayer and the BFCF eligible applicant.

*b.* Each application shall include, but not be limited to, the following:

(1) Taxpayer information: name and address, e-mail address if available, social security number, and description ~~and location~~ of the custom hire work completed. In addition, the application shall have attached to it a copy of the custom hire contract between the parties.

(2) BFCF eligible applicant information: name and address, e-mail address if available, ~~social security number, and location of where~~ description of the custom hire work was completed. In addition, the application shall have attached to it a copy of the BFCF eligible applicant's most recent financial statement (generally prepared one month preceding application submission). The application will also include a background letter on the BFCF eligible applicant documenting to the satisfaction of the authority sufficient training, experience and access to capital. This letter may be submitted by one or more of the following: the BFCF eligible applicant, the taxpayer or another third party.

*c.* No change.

**44.7(3) Execution of custom farming contract.** In addition to the requirements set forth in rule 265—44.7(16), both the taxpayer and the BFCF eligible applicant shall execute a custom farming contract. ~~This form shall be in a format provided by the authority or other~~ The form used shall be a commonly accepted forms form and signed by all parties.

**44.7(4)** No change.

**44.7(5) Procedures following tax credit approval.** Either the BFCF eligible applicant or the taxpayer shall immediately notify the authority of any material changes in the custom hire contract. Written approval from the authority is required if the change impacts the amount of the tax credit awarded. The authority shall act upon these changes pursuant to Iowa Code section 16.81. ~~Material changes cannot result in an increase in the original tax credit amount approved.~~ ~~Death of a party to the contract, divorce, or sale of the property will be considered eligible material changes.~~

ITEM 11. Amend **265—Chapter 44**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 16.4A, 16.4B, 16.5D, and 16.75 to 16.84.

**ARC 2132C**

**NATURAL RESOURCES DEPARTMENT[561]**

**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 455A.4 and 483A.24, the Department of Natural Resources hereby gives Notice of Intended Action to amend Chapter 12, “Special Nonresident Deer and Turkey Licenses,” Iowa Administrative Code.

Chapter 12 establishes the process by which the Department issues special nonresident hunting licenses to individuals as part of a statewide or local effort to promote the state and its natural resources. The Department is proposing to amend Chapter 12 to provide nonresident disabled active members or veterans of the armed forces the opportunity to buy hunting licenses in Iowa at resident prices. Specifically, Iowa Code section 483A.24(5) requires that 25 of the 75 special nonresident deer hunting licenses, 25 of the 75 special nonresident turkey hunting licenses and an unlimited number of small-game hunting licenses be allocated to qualified nonresident disabled active members or veterans of the armed forces who participate in hunts conducted by organizations that provide hunting experiences for the severely wounded. These nonresident hunting licenses are sold at resident prices. Guidelines for the application process are outlined in these amendments.

The amendments:

1. Establish the criteria that an organization must meet to be eligible to assist disabled military personnel and veterans through this program;
2. Define “nonresident disabled veteran or disabled member of the armed forces” for purposes of this program;
3. Establish the deadline for the submission of applications for these special licenses; and
4. Outline the application submission and approval process.

The amendments also add the phrase “for promotional special licenses” to the catchwords of several rules to better clarify the provisions of the chapter applicable to the general promotion of Iowa and its natural resources from those provisions applicable to the nonresident disabled active members or veterans of the armed forces program.

Any interested person may make written suggestions or comments on the proposed amendments on or before September 22, 2015. Written comments may be directed to Alex Cross, Licensing Section Supervisor, Department of Natural Resources, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa 50319-0034; by e-mail at [Alex.Cross@dnr.iowa.gov](mailto:Alex.Cross@dnr.iowa.gov); or by fax to (515)725-8201. Persons who wish to convey their comments orally may contact the Licensing Section at (515)725-8255 or visit the fourth floor of the Wallace State Office Building during regular business hours.

There will be a public hearing on September 22, 2015, at 1 p.m. in Conference Room 4E of the Wallace State Office Building, Des Moines, Iowa. At the public hearing, persons may present their views either orally or in writing. Participants will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

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

The proposed amendments will have no impact on jobs in the state.

These amendments are intended to implement Iowa Code section 483A.24(5).

The following amendments are proposed.

## NATURAL RESOURCES DEPARTMENT[561](cont'd)

ITEM 1. Adopt the following **new** definitions in rule **561—12.2(483A)**:

*“Approved organization”* means an organization that is incorporated under Iowa Code chapter 504 as a nonprofit organization, whose mission involves providing hunting experiences for disabled veterans and military personnel, and that is listed on the IRS exempt organizations list or provides a copy of an IRS determination letter for 501(c) tax-exempt status.

*“Nonresident disabled veteran or disabled member of the armed forces”* means a person who is a veteran and who has an assigned service-related disability rating of 30 percent or more under United States Code, Title 38, Chapter 11; or a person who is a member of the armed forces serving on active federal duty currently participating in the Integrated Disability Evaluation System (IDES).

ITEM 2. Amend rule **561—12.2(483A)**, definition of “Sponsor,” as follows:

*“Sponsor”* means an entity that applies on behalf of one or more hunters. Sponsors shall either conduct business in Iowa and be registered with the secretary of state or have some other affiliation with the state of Iowa.

ITEM 3. Amend rule 561—12.3(483A) as follows:

**561—12.3(483A) Availability of special licenses.** The program shall be available to provide no more than the number of special licenses allowed by Iowa Code section 483A.24 to nonresidents through requests submitted by individual hunters, ~~or~~ through a sponsor, or through an approved organization. ~~Sponsors may be located in the state of Iowa.~~

ITEM 4. Amend subrule 12.4(2) as follows:

**12.4(2)** Develop templates for requests for special licenses and provide the templates to hunters, ~~and sponsors,~~ and approved organizations upon request.

ITEM 5. Amend subrule 12.4(6) as follows:

**12.4(6)** Establish the date on which applications for special licenses for disabled veterans and disabled active military personnel are due, establish the dates on which the legislative committee will select the conservation organizations and hunters who will receive special licenses, and inform the conservation organizations, the approved organizations and the hunters of their selection.

ITEM 6. Amend rule 561—12.5(483A), catchwords, as follows:

**561—12.5(483A) Request, review, and selection process for promotional special licenses.**

ITEM 7. Amend rule 561—12.6(483A), catchwords, as follows:

**561—12.6(483A) Consideration of requests for promotional special licenses.**

ITEM 8. Amend rule 561—12.7(483A), catchwords, as follows:

**561—12.7(483A) Ranking criteria for promotional special licenses.**

ITEM 9. Amend rule 561—12.8(483A), catchwords, as follows:

**561—12.8(483A) Services provided by recipients of promotional special licenses.**

ITEM 10. Amend rule 561—12.9(483A), catchwords, as follows:

**561—12.9(483A) License term for promotional special licenses.**

ITEM 11. Amend rule 561—12.10(483A), catchwords, as follows:

**561—12.10(483A) Reporting by recipients of promotional special licenses.**

## NATURAL RESOURCES DEPARTMENT[561](cont'd)

ITEM 12. Amend rule 561—12.11(483A), catchwords, as follows:

**561—12.11(483A) Prohibitions for promotional special licenses.**

ITEM 13. Amend rule 561—12.12(483A), catchwords, as follows:

**561—12.12(483A) License costs for promotional special licenses.**

ITEM 14. Amend rule 561—12.13(483A), catchwords, as follows:

**561—12.13(483A) Hunter safety requirements for holders of promotional special licenses.**

ITEM 15. Adopt the following new rules 561—12.14(483A) to 561—12.18(483A):

**561—12.14(483A) Request, review, and selection processes for special licenses for nonresident disabled veterans or disabled members of the armed forces.**

**12.14(1) Submission of requests.**

a. Individual hunters or approved organizations shall submit a request, or requests, to the coordinator.

(1) A request for a deer license must be on the form provided by the department and shall be submitted to the coordinator by August 1 prior to the season to be hunted.

(2) A request for a turkey license must be on the form provided by the department and shall be submitted to the coordinator at least 14 days prior to the season to be hunted.

(3) A request for a regular hunting license that includes the habitat fee must be on the form provided by the department and shall be submitted to the coordinator prior to the seasons to be hunted.

b. Applicants will not qualify for a deer or turkey license under this rule if they were issued a deer or turkey license under this rule the previous year. However, if there are unclaimed deer or turkey licenses under this rule, then the coordinator may keep a list of applicants who received licenses the previous year and who apply for the current year, and process those applicants' applications through an electronic, unbiased lottery system to determine the recipients of the unclaimed licenses.

c. Hunters awarded a deer license under this rule may purchase preference points for the regular nonresident deer license and shall not lose those preference points when awarded a deer license under this rule.

**12.14(2) Review.** After the established deadlines have passed, the coordinator shall review the applications for completeness and shall process the complete applications through an electronic, unbiased lottery system to determine the recipients of the special licenses. The coordinator shall exercise discretion and shall also consider the following:

a. Requests from an approved organization or hunter that has been found guilty of a game violation in Iowa or elsewhere shall not be considered for a special license.

b. If special licenses are unclaimed after the established deadlines, the coordinator may set new deadlines and inform participating approved organizations that licenses are still available. Applications shall be processed through an electronic, unbiased lottery system to determine the recipients.

**12.14(3) Selection and payment.** Upon notice of selection to receive a special license, the approved organization or hunter shall make payment in accordance with rule 561—12.17(483A) to the department through the coordinator. Payment must be made prior to the hunting season for which the license is valid.

**561—12.15(483A) License term for disabled veteran and military special licenses.** Special deer or turkey licenses issued under these rules shall be valid for only the applicable deer or turkey season immediately following allocation of the license.

**561—12.16(483A) Prohibitions for disabled veteran and military special licenses.** Photographs, videotapes or any other form of media resulting from the special licenses issued pursuant to this chapter shall not be used for political campaign purposes.

## NATURAL RESOURCES DEPARTMENT[561](cont'd)

**561—12.17(483A) License costs for disabled veteran and military special licenses.** A nonresident who obtains a special license issued pursuant to this chapter shall pay the applicable fee as follows:

**12.17(1)** For a special nonresident deer hunting antlered or any sex deer license or a turkey hunting license, the fee described in Iowa Code section 483A.24(5)“c.”

**12.17(2)** For a special nonresident hunting license that includes the wildlife habitat fee, the fee described in Iowa Code section 483A.24(5)“d.”

**561—12.18(483A) Hunter safety requirements for disabled veterans and military hunters.** As provided in Iowa Code section 483A.24(5), a hunter education certificate is required for holders of special disabled veteran and military licenses issued pursuant to this chapter.

**ARC 2135C****PUBLIC HEALTH DEPARTMENT[641]****Notice of Termination**

Pursuant to the authority of Iowa Code section 135.22, the Department of Public Health hereby terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin as **ARC 1950C** on April 1, 2015, proposing to amend Chapter 21, “Central Registry for Brain and Spinal Cord Injuries,” Iowa Administrative Code.

**ARC 1950C** proposed to amend the reportable conditions for brain injury, bringing these into agreement with those specified by rule for the home- and community-based services waiver for persons with brain injury under the medical assistance program. In addition, the Notice proposed amendments that outlined the information required in each report and amended the reportable conditions for brain and spinal cord injury to transition to the International Classification of Diseases, 10th Revision, Clinical Modification.

The Department is terminating the rule making commenced in **ARC 1950C** and will renote the proposed amendments to address comments received during the public comment period while meeting the Department’s obligations pursuant to the legislative directive.

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

**ARC 2123C****REVENUE DEPARTMENT[701]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 17A.3, 421.14, and 452A.59, the Department of Revenue proposes to amend Chapter 67, “Administration,” and Chapter 68, “Motor Fuel and Undyed Special Fuel,” Iowa Administrative Code.

The proposed amendments are necessary to reflect the enactment of 2015 Iowa Acts, Senate File 257. 2015 Iowa Acts, Senate File 257, modifies the rate of excise taxes on motor fuel and special fuel, and it establishes a biodiesel distribution percentage formula. The proposed amendments also update terminology and references to the Iowa Code.

Items 1 and 2 amend rule 701—67.1(452A) by amending and adding definitions to reflect the enactment of 2015 Iowa Acts, Senate File 257.

Items 3, 6, and 8 update terminology and references to the Iowa Code.

Items 4, 5, and 7 update the excise tax rates and procedures to reflect the enactment of 2015 Iowa Acts, Senate File 257.

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

The Department of Revenue has identified administrative costs of \$150,000 due to the implementation of 2015 Iowa Acts, Senate File 257. These costs will be covered by existing resources.

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

The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than October 5, 2015, to Matt Bishop, Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. Alternatively, requests may be e-mailed to [matt.bishop@iowa.gov](mailto:matt.bishop@iowa.gov). The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business, or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on these proposed amendments on or before September 22, 2015. Such written comments should be e-mailed to Matt Bishop at [matt.bishop@iowa.gov](mailto:matt.bishop@iowa.gov) or mailed to Matt Bishop, Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. Persons who want to convey their views orally should contact Matt Bishop, Policy and Communications Division, Department of Revenue, at (515)725-1106 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

After analysis and review of this rule making, the Department finds that the amendments related to 2015 Iowa Acts, Senate File 257, are likely to have a positive impact on jobs. The Legislative Services Agency estimated that the rate change for motor fuel and special fuel for motor vehicles will increase deposits to the road use tax fund by about \$200 million per fiscal year from FY 2016 through FY 2020. As expressed in the Act, the General Assembly intended that a significant amount of these increased deposits will fund critical road and bridge construction projects, which will create jobs. The Legislative Services Agency also estimated that the rate change for aviation special fuel (aviation jet fuel) will increase deposits to the state aviation fund by \$790,000 per fiscal year from FY 2016 through FY 2020. Increased deposits to the state aviation fund will create jobs by funding additional airport grants, aviation-related services, special projects, and statewide planning.

These amendments are intended to implement Iowa Code section 452A.3 as amended by 2015 Iowa Acts, Senate File 257.

The following amendments are proposed.

ITEM 1. Amend rule **701—67.1(452A)**, definitions of “Blender” and “Supplier,” as follows:

“Blender” means a person who owns and blends ethanol with gasoline two or more fuels, including ethanol or biodiesel, at a nonterminal location to produce ethanol blended gasoline and blends the product at a nonterminal location or biodiesel blended fuel. The person is not restricted to blending ethanol with gasoline or biodiesel with diesel. Products blended with gasoline other than ethanol are taxed as gasoline. “Blender” also means a person blending two or more special fuel products at a nonterminal location where the tax has not been paid on all of the products blended. The blend is taxed as a special fuel according to its fuel and alcohol content, which may result in additional tax due or an allowable refund for the blender. See rule 701—68.4(452A).

“Supplier” means a person who acquires motor fuel or special fuel by pipeline or marine vessel from a state, territory, or possession of the United States, or from a foreign country for storage at and distribution from a terminal and who is registered under 26 U.S.C. § 4101 for tax-free transactions in gasoline fuel; a person who produces in this state or acquires by truck, railcar, or barge for storage at and distribution from a terminal, biofuel, biodiesel, alcohol, or alcohol derivative substances; or a person who produces, manufactures, or refines motor fuel or special fuel in this state. “Supplier” includes a person who does not meet the jurisdictional connection to this state but voluntarily agrees to act as a supplier for purposes of collecting and reporting the motor fuel or special fuel tax. “Supplier” does not include a retail dealer or wholesaler who merely blends alcohol with gasoline or biofuel with diesel before the

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

sale or distribution of the product or a terminal operator who merely handles, in a terminal, motor fuel or special fuel consigned to the terminal operator.

ITEM 2. Adopt the following **new** definitions of “B-11,” “Biodiesel distribution percentage” and “Petrodiesel” in rule **701—67.1(452A)**:

“*B-11*” means biodiesel blended fuel formulated with a minimum percentage of 11 percent by volume of biodiesel, if the formulation meets the standards provided in Iowa Code section 214A.2. A similar notation refers to biodiesel blended fuel containing other percentages of biodiesel. For example, “B-5” means biodiesel blended fuel formulated with a minimum percentage of 5 percent by volume of biodiesel, if the formulation meets the standards provided in Iowa Code section 214A.2.

“*Biodiesel distribution percentage*” means the number of gallons of biodiesel blended fuel classified as B-11 or higher that is distributed in this state as expressed as a percentage of the number of gallons of special fuel for diesel engines of motor vehicles distributed in this state during the determination period. The determination period is the previous calendar year.

“*Petrodiesel*” means petroleum-based diesel fuel. Petrodiesel contains no biodiesel.

ITEM 3. Amend rule 701—67.21(452A) as follows:

**701—67.21(452A) Bonding procedure.** The director may, when necessary and advisable in order to secure the collection of the tax, require any person subject to the tax to file with the department a bond in an amount as the director may fix, or in lieu of the bond, securities approved by the director in an amount as the director may prescribe. Pursuant to the statutory authorization in Iowa Code sections ~~422.52(3)~~ 423.35 and 452A.66, the director has determined that the following procedures will be instituted with regard to bonds:

**67.21(1)** and **67.21(2)** No change.

This rule is intended to implement Iowa Code sections ~~422.52(3)~~ 423.35 and 452A.66.

ITEM 4. Amend subrule 68.2(1) as follows:

**68.2(1)** The following rates of tax apply to the use of fuel in operating motor vehicles and aircraft:

Gasoline	20.3¢ per gallon (for July 1, 2003, through June 30, 2004)
	20.5¢ per gallon (for July 1, 2004, through June 30, 2005)
	20.7¢ per gallon (for July 1, 2005, through June 30, 2006)
	21¢ per gallon (for July 1, 2006, through June 30, 2007)
	20.7¢ per gallon (for July 1, 2007, through June 30, 2008)
	21¢ per gallon (for July 1, 2008, through <del>June 30</del> <u>February 28, 2015</u> )
	<u>31¢ per gallon (for March 1, 2015, through June 30, 2015)</u>
	<u>30.8¢ per gallon (beginning July 1, 2015)</u>
LPG	<del>20¢ per gallon</del>
Ethanol blended gasoline	19¢ per gallon (for July 1, 2003, through <del>June 30</del> <u>February 28, 2015</u> )
	<u>29¢ per gallon (for March 1, 2015, through June 30, 2015)</u>
	<u>29.3¢ per gallon (beginning July 1, 2015)</u>
E-85 gasoline	17¢ per gallon <del>beginning (for</del> January 1, 2006, through June 30, 2007)
	19¢ per gallon (for July 1, 2007, through <del>June 30</del> <u>February 28, 2015</u> )
	<u>29¢ per gallon (for March 1, 2015, through June 30, 2015)</u>
	<u>29.3¢ per gallon (beginning July 1, 2015)</u>
Aviation gasoline	8¢ per gallon ( <u>beginning July 1, 1988</u> )
Special fuel (biodiesel, diesel, LNG)	<del>22.5¢ per gallon</del>
<u>Diesel fuel other than B-11 or higher</u>	<u>22.5¢ per gallon (on and before February 28, 2015)</u>
	<u>32.5¢ per gallon (beginning March 1, 2015)</u>

REVENUE DEPARTMENT[701](cont'd)

<u>Biodiesel blended fuel (B-11 or higher)</u>	<u>22.5¢ per gallon (on and before February 28, 2015)</u> <u>32.5¢ per gallon (for March 1, 2015, through June 30, 2015)</u> <u>29.5¢ per gallon (beginning July 1, 2015)</u>
<u>Special fuel (aircraft) Aviation jet fuel</u>	<u>3¢ per gallon (on and before February 28, 2015)</u> <u>5¢ per gallon (beginning March 1, 2015)</u>
<u>L.P.G.</u>	<u>20¢ per gallon (on and before February 28, 2015)</u> <u>30¢ per gallon (beginning March 1, 2015)</u>
<u>C.N.G.</u>	<del>21¢ per gallon</del> <u>16¢ per 100 cu. ft. (on and before June 30, 2014)</u> <u>21¢ per gallon (for July 1, 2014, through February 28, 2015)</u> <u>31¢ per gallon (beginning March 1, 2015)</u>
<u>L.N.G.</u>	<u>22.5¢ per gallon (on and before February 28, 2015)</u> <u>32.5¢ per gallon (beginning March 1, 2015)</u>

ITEM 5. Amend subrule 68.2(2) as follows:

**68.2(2) Fuel distribution percentages.**

*a. Ethanol distribution percentage.*

(1) Except as otherwise provided in this ~~subrule paragraph~~, ~~until June 30, 2015~~ for March 1, 2015, through June 30, 2020, this ~~subrule paragraph~~ shall apply to the excise tax imposed on each gallon of motor fuel used for any purpose for the privilege of operating motor vehicles in this state. The rate of the excise tax shall be based on the ethanol distribution percentage. The ethanol distribution percentage is the number of gallons of ethanol blended gasoline that is distributed in this state as expressed as a percentage of the number of gallons of motor fuel, excluding aviation gasoline, distributed in this state. The number of gallons of ethanol blended gasoline and motor fuel distributed in this state shall be based on the total taxable gallons of ethanol blended gasoline and motor fuel as shown on the fuel tax monthly reports issued by the department for January through December for each determination period. The department shall determine the percentage for each determination period beginning January 1 and ending December 31. The rate for the excise tax shall apply for the period beginning July 1 and ending June 30 following the end of the determination period. The rate for the excise tax shall be as follows:

Ethanol Distribution %	Ethanol Tax	Gasoline Tax
00/50	<del>19.0</del> <u>29.0</u>	<del>20.0</del> <u>30.0</u>
50+/55	<del>19.0</del> <u>29.0</u>	<del>20.1</del> <u>30.1</u>
55+/60	<del>19.0</del> <u>29.0</u>	<del>20.3</del> <u>30.3</u>
60+/65	<del>19.0</del> <u>29.0</u>	<del>20.5</del> <u>30.5</u>
65+/70	<del>19.0</del> <u>29.0</u>	<del>20.7</del> <u>30.7</u>
70+/75	<del>19.0</del> <u>29.0</u>	<del>21.0</del> <u>31.0</u>
75+/80	<del>19.3</del> <u>29.3</u>	<del>20.8</del> <u>30.8</u>
80+/85	<del>19.5</del> <u>29.5</u>	<del>20.7</del> <u>30.7</u>
85+/90	<del>19.7</del> <u>29.7</u>	<del>20.4</del> <u>30.4</u>
90+/95	<del>19.9</del> <u>29.9</u>	<del>20.1</del> <u>30.1</u>
95+/100	<del>20.0</del> <u>30.0</u>	<del>20.0</del> <u>30.0</u>

(2) Except as otherwise provided in this ~~subrule paragraph~~, ~~after June 30, 2015~~ 2020, an excise tax of ~~20~~ 30 cents is imposed on each gallon of motor fuel used for any purpose for the privilege of operating motor vehicles in this state.

*b. Biodiesel distribution percentage.*

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

(1) Except as otherwise provided in this paragraph, for July 1, 2015, through June 30, 2020, this paragraph shall apply to the excise tax imposed on each gallon of special fuel for diesel engines of motor vehicles used for any purpose for the privilege of operating motor vehicles in this state. The rate of the excise tax shall be based on the biodiesel distribution percentage. The biodiesel distribution percentage is the number of gallons of biodiesel blended fuel classified as B-11 or higher that is distributed in this state as expressed as a percentage of the number of gallons of special fuel for diesel engines of motor vehicles distributed in this state. The number of gallons of biodiesel blended fuel and special fuel for diesel engines of motor vehicles distributed in this state shall be based on the total taxable gallons of biodiesel blended fuel and special fuel for diesel engines of motor vehicles as shown on the fuel tax monthly reports issued by the department for January through December for each determination period. The department shall determine the percentage for each determination period beginning January 1 and ending December 31. The rate for the excise tax shall apply for the period beginning July 1 and ending June 30 following the end of the determination period. The rate for the excise tax shall be as follows:

<u>Biodiesel Distribution %</u>	<u>B-11 or Higher Tax</u>	<u>Other Than B-11 or Higher Tax</u>
<u>00/50</u>	<u>29.5</u>	<u>32.5</u>
<u>50+/55</u>	<u>29.8</u>	<u>32.5</u>
<u>55+/60</u>	<u>30.1</u>	<u>32.5</u>
<u>60+/65</u>	<u>30.4</u>	<u>32.5</u>
<u>65+/70</u>	<u>30.7</u>	<u>32.5</u>
<u>70+/75</u>	<u>31.0</u>	<u>32.5</u>
<u>75+/80</u>	<u>31.3</u>	<u>32.5</u>
<u>80+/85</u>	<u>31.6</u>	<u>32.5</u>
<u>85+/90</u>	<u>31.9</u>	<u>32.5</u>
<u>90+/95</u>	<u>32.2</u>	<u>32.5</u>
<u>95+/100</u>	<u>32.5</u>	<u>32.5</u>

(2) The determination period for the biodiesel distribution percentage is January through December each calendar year. Prior to July 1, 2015, Iowa licensees did not separately report the total taxable gallons of biodiesel blended fuel classified as B-11 or higher that is distributed in this state. Accordingly, the department cannot calculate the biodiesel distribution percentage for calendar years 2014 and 2015 using the method described in subparagraph 68.2(2)“b”(1). However, the best information available to the department indicates the biodiesel distribution percentage is not greater than 50 percent for calendar years 2014 and 2015. Therefore, for the period between July 1, 2015, and June 30, 2016, and for the period between July 1, 2016, and June 30, 2017, the rates for the excise tax on special fuel for diesel engines of motor vehicles are based on a biodiesel distribution percentage of 00/50%.

(3) Except as otherwise provided in this paragraph, for the period between March 1, 2015, and June 30, 2015, and for the period after June 30, 2020, an excise tax of 32.5 cents is imposed on each gallon of special fuel for diesel engines of motor vehicles used for any purpose for the privilege of operating motor vehicles in this state.

*c. Legislative review.* The ethanol distribution percentage, the biodiesel distribution percentage, and the corresponding excise tax rates are subject to legislative review at least every six years. The review is based upon a fuel distribution percentage formula status report, which contains the recommendations of a legislative interim committee appointed to conduct a review of the fuel distribution percentage formulas. The report is prepared with the assistance of the Iowa department of revenue and the Iowa department of transportation. The report includes recommendations for changes or revisions to the fuel distribution percentage formulas based upon advances in technology, fuel use trends, and fuel price fluctuations observed during the preceding six-year interval; an analysis of the operation of the fuel distribution percentage formulas during the preceding six-year interval; and a summary of issues that have arisen since the previous review and potential approaches for resolution of those issues. The first

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

report will be submitted to the general assembly no later than January 1, 2020, with subsequent reports developed and submitted by January 1 at least every sixth year thereafter.

ITEM 6. Amend subrule 68.2(4), introductory paragraph, as follows:

**68.2(4)** The department shall determine the actual tax paid for E-85 gasoline in the previous calendar year and compare this amount to the amount that would have been paid using the tax rate imposed in Iowa Code section 452A.3, subsection 1 or ~~1A~~ 2. If the difference is less than \$25,000, the tax rate for the tax period beginning the following July 1 shall be 17¢ per gallon. If the difference is \$25,000 or more, the tax rate shall be the rate in effect pursuant to Iowa Code section 452A.3, subsection 1 or ~~1A~~ 2.

ITEM 7. Amend rule 701—68.4(452A) as follows:

**701—68.4(452A) Ethanol blended gasoline Blended fuel taxation—nonterminal location.**

**68.4(1)** *Responsibilities of all blenders at nonterminal locations.* A person who blends ethanol blended gasoline or biodiesel blended fuel at a nonterminal location must obtain a blender's license. Blending ethanol with gasoline, or blending biodiesel with petrodiesel, may result in additional tax due or an allowable refund depending on the alcohol content of the mixture and the tax paid on its components. The blender must make payment to the department for the additional tax due. The blender must obtain a refund permit to receive a refund of the overpayment of tax on the blended product.

EXAMPLE 1. A blender blends three parts ethanol with 17 parts gasoline to create E-15. The E-15 is taxed as ethanol blended gasoline, and the blender may be due a refund for excess tax paid on the gasoline used.

EXAMPLE 2. A blender blends one part biodiesel with four parts petrodiesel to create B-20. The B-20 is taxed as B-11 or higher, and the blender may be due a refund for excess tax paid on the petrodiesel used.

EXAMPLE 3. A blender blends one part biodiesel with 19 parts petrodiesel to create B-5. The B-5 is taxed as diesel other than B-11 or higher, and the blender may owe additional tax to the department on the biodiesel used.

EXAMPLE 4. A blender blends one part B-20 with five parts B-2 to create B-5. The B-5 is taxed as diesel other than B-11 or higher, and the blender may owe additional tax to the department on the B-20 used.

**68.4(2)** *Blenders of ethanol blended gasoline.*

**68.4(1) a.** Blenders A blender who ~~own~~ owns the alcohol (supplier) being used to blend with gasoline must purchase the gasoline from a supplier and pay the appropriate tax to the supplier (~~20¢ per gallon~~). The blender must obtain a blender's license and compute the tax due on the total gallons of blended product and make payment to the department for the additional amount due. For purposes of ~~this subrule and subrules 68.4(2) and 68.4(3)~~ the following example, the tax rate for gasoline is presumed to be ~~20¢~~ 30¢ per gallon and the tax rate for ethanol blended gasoline is presumed to be ~~19¢~~ 29¢ per gallon. The actual tax ~~rate~~ rates for the appropriate period ~~is~~ are shown in subrule 68.2(1).

EXAMPLE:

Blender purchases 7,200 gallons tax-paid gasoline (7,200 × <del>20.30</del> ) =	\$1,440.00 <u>\$2,160.00</u>
Blender adds 800 gallons untaxed alcohol	\$ .00
Total tax paid on products	\$1,440.00 <u>\$2,160.00</u>
Total tax due on 8,000 gallons <u>ethanol</u> blended <del>product</del> <u>gasoline</u> (8,000 × <del>19.29</del> ) =	\$1,520.00 <u>\$2,320.00</u>
Additional Amount Due	\$ 80.00 <u>\$160.00</u>

**68.4(2) b.** Blenders A blender who ~~purchase~~ purchases alcohol and gasoline from a supplier must pay tax of ~~\$.19 per gallon~~ on both the alcohol purchased and ~~\$.20 per gallon~~ on the gasoline purchased. The blender must obtain a refund permit to receive a refund of the overpayment of tax on the blended product. For purposes of the following example, the tax rate for gasoline is presumed to be 30¢ per

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

gallon and the tax rate for ethanol blended gasoline is presumed to be 29¢ per gallon. The actual tax rates for the appropriate period are shown in subrule 68.2(1).

EXAMPLE:

Blender purchases 7,200 gallons tax-paid gasoline ( $7,200 \times .20.30$ ) =	\$1,440.00	\$2,160.00
Blender purchases 800 gallons tax-paid alcohol ( $800 \times .19.29$ ) =		152.00
Total tax paid on products	\$1,592.00	\$2,392.00
Total tax due on 8,000 gallons <u>ethanol</u> blended <u>product</u> gasoline ( $8,000 \times .19.29$ ) =	\$1,520.00	\$2,320.00
Amount of Refund Allowable		\$72.00

**68.4(3) c.** Ethanol blended gasoline—blending errors. ~~For periods beginning July 1, 1978, to June 30, 2000.~~

Where ~~a blending error occurs~~ error occurs and an insufficient amount of alcohol has been blended with ~~motor fuel gasoline~~ gasoline so that the mixture fails to qualify as ethanol blended gasoline as defined in Iowa Code section ~~452A.2(6)~~ 452A.2, the tax shall be determined as follows:

~~a-~~ (1) If the amount of the alcohol blended with ~~motor fuel gasoline~~ gasoline is short by five gallons or less per blend and the alcohol blended with the gasoline is short by 1.01 percent or less of such mixture, the alcohol and ~~motor fuel gasoline~~ blended product is ~~to be~~ considered ethanol blended gasoline and there ~~will be~~ is no penalty or assessment of additional tax.

~~b-~~ (2) If the alcohol and ~~motor fuel gasoline~~ gasoline mixture is short of alcohol by more than five gallons but the alcohol blended with the ~~motor fuels~~ gasoline is short by 1.01 percent or less of such mixture, the motor fuel must be divided for tax purposes into ethanol blended gasoline and ~~motor fuel gasoline~~ gasoline containing no alcohol as follows.

That portion of alcohol must be added to ~~motor fuel gasoline~~ gasoline on the basis of one part alcohol to nine parts ~~motor fuel gasoline~~ gasoline to determine the portion which is considered ethanol blended gasoline and to have a tax status as such. The portions of ~~motor fuel gasoline~~ gasoline remaining are ~~to be~~ considered taxable ~~motor fuel gasoline~~ gasoline subject to tax at the prevailing rate.

~~e-~~ (3) If the amount of alcohol blended with ~~motor fuel gasoline~~ gasoline is short by more than 1.01 percent of the total blend, the total blend of ~~motor fuel gasoline~~ gasoline and alcohol is subject to tax as ~~motor fuel gasoline~~ gasoline at the prevailing rate of tax.

(4) The following ~~formula will be~~ formulas are used to compute blending errors:

Actual gasoline + actual alcohol = total gallons of blended product

Motor fuel Actual gasoline  $\div 9$  = required alcohol

Actual alcohol  $\times 9$  = required gasoline

~~Misblended ethanol~~ Total gallons of blended gasoline product  $\times .0101$  = gallons of alcohol tolerance

Required alcohol - actual alcohol = gallons short of alcohol

Required alcohol - actual alcohol is less than or equal to gallons of alcohol short

Actual alcohol  $\times 9$  = motor fuel portion of ethanol-blended gasoline

Motor fuel portion of ethanol-blended gasoline + actual alcohol = ethanol-blended gasoline

Actual motor fuel - motor fuel portion of ethanol-blended gasoline = motor fuel

(5) If the gallons short of alcohol is less than or equal to the alcohol tolerance, subparagraph (1) or (2) of this paragraph applies. If the gallons short of alcohol is more than the alcohol tolerance, subparagraph (3) of this paragraph applies.

(6) Examples. The following factors are assumed for all examples:

Figures are rounded to the nearest whole gallons gallon; ethanol blended gasoline is taxed at ~~\$.19~~ \$.29 per gallon; ~~motor fuel gasoline~~ gasoline is taxed at ~~\$.20~~ \$.30 per gallon. The actual tax rates for the appropriate period are shown in subrule 68.2(1). Penalty and interest charges are not computed in the examples.

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

EXAMPLE 1.

<u>Total blended product</u>	=	<u>8,884 gal.</u>
<u>Actual gasoline</u>	=	<u>8,000 gal.</u>
<u>Actual alcohol</u>	=	<u>884 gal.</u>
<u>8,000 ÷ 9</u>	=	<u>889 gal. required alcohol</u>
<u>8,884 × .0101</u>	=	<u>90 gal. alcohol tolerance</u>
<u>889 – 884</u>	=	<u>5 gal. short of alcohol</u>

The gallons short of alcohol is five gallons or less, and the gallons short of alcohol (5) is less than the gallons of alcohol tolerance (90). Thus, the tax is applied according to subparagraph 68.4(2) "c"(1) as follows:

$$\underline{8,884 \text{ gal. of blended product} \times \$ .29} = \underline{\$2,576.36 \text{ tax on ethanol blended gasoline}}$$

EXAMPLE 2.

<u>Total blended product</u>	=	<u>439 gal.</u>
<u>Actual gasoline</u>	=	<u>400 gal.</u>
<u>Actual alcohol</u>	=	<u>39 gal.</u>
<u>400 ÷ 9</u>	=	<u>44 gal. required alcohol</u>
<u>439 × .0101</u>	=	<u>4 gal. alcohol tolerance</u>
<u>44 – 39</u>	=	<u>5 gal. short of alcohol</u>

The gallons short of alcohol is five gallons or less, but the gallons short of alcohol (5) is greater than the gallons of alcohol tolerance (4). Thus, the tax is applied according to subparagraph 68.4(2) "c"(3) as follows:

$$\underline{439 \text{ gal. of blended product} \times \$ .30} = \underline{\$131.70 \text{ tax on gasoline}}$$

EXAMPLE 3.

<u>Total blended product</u>	=	<u>8,800 gal.</u>
<del>Motor fuel</del> <u>Actual gasoline</u>	=	<u>8,000 gal.</u>
<del>Alcohol</del> <u>Actual alcohol</u>	=	<u>800 gal.</u>
<u>8,000 ÷ 9</u>	=	<u>889 gal. required alcohol</u>
<u>8,800 × .0101</u>	=	<u>89 gal. alcohol tolerance</u>
<u>889 – 800</u>	=	<u>89 gal. short of alcohol</u>

89 The gallons short of alcohol (89) is equal to 89 the gallons of alcohol tolerance (89), which means that the tax is applied according to paragraph "b" above subparagraph 68.4(2) "c"(2) as follows:

REVENUE DEPARTMENT[701](cont'd)

800 × 9	=	7,200	gal. <del>motor fuel</del> <u>gasoline</u> portion of ethanol blended gasoline
7,200 + 800	=	8,000	gal. of ethanol blended gasoline
<del>8,000</del> <u>8,800</u> - <del>7,200</del> <u>8,000</u>	=	800	gal. of <del>motor fuel</del> <u>gasoline</u> subject to tax
8,000 gal. of <del>alcohol</del> <u>ethanol</u> blended gasoline × <del>\$.19</del> <u>\$.29</u>	=	\$1520 <u>\$2,320</u>	tax on ethanol blended gasoline
800 gal. of <del>motor fuel</del> <u>gasoline</u> × <del>\$.20</del> <u>\$.30</u>	=	\$160 <u>\$240</u>	tax on gasoline
TOTAL		\$1680 <u>\$2,560</u>	( <del>\$1520</del> <u>\$2,320</u> + <del>\$160</del> <u>\$240</u> )

EXAMPLE 2. 4.

<u>Total blended product</u>	=	<u>8,795</u>	gal.
<del>Motor fuel</del> <u>Actual gasoline</u>	=	<u>8,000</u>	gal.
<del>Alcohol</del> <u>Actual alcohol</u>	=	<u>795</u>	gal.
8,000 ÷ 9	=	889	gal. required alcohol
8,795 × .0101	=	89	gal. alcohol tolerance
889 - 795	=	94	gal. short of alcohol

94 The gallons short of alcohol (94) is greater than ~~89~~ the gallons of alcohol tolerance (89), which means that the entire blend is considered ~~motor fuel~~ gasoline and the tax is applied according to ~~paragraph "e"~~ above subparagraph 68.4(2) "c"(3) as follows:

$$8,795 \times \underline{\$.20} \underline{\$.30} = \underline{\$1759.00} \underline{\$2,638.50}$$

EXAMPLE 3.

<del>Motor fuel</del>	=	<del>8,000</del>	gal.
<del>Alcohol</del>	=	<del>885</del>	gal.
<del>8,000 ÷ 9</del>	=	<del>889</del>	gal. required alcohol
<del>889 gal. - 885 gal.</del>	=	<del>4</del>	gal. short of alcohol

~~This total blend is considered ethanol blended gasoline because the blend is short by less than 5 gallons. The tax would be as follows:~~

$$8,885 \text{ gal.} \times \underline{\$.19} = \underline{\$1688.15}$$

**68.4(3) Blenders of biodiesel blended fuel.**

a. A blender who owns the biodiesel (supplier) being used to blend with diesel must purchase the diesel from a supplier and pay the appropriate tax to the supplier. The blender must obtain a blender's license and compute the tax due on the total gallons of blended product and make payment to the department for the additional amount due. For purposes of the following examples, the tax rate for B-11 or higher is presumed to be 29¢ per gallon and the tax rate for diesel other than B-11 or higher is presumed to be 32.5¢ per gallon. The actual tax rates for the appropriate period are shown in subrule 68.2(1).

EXAMPLE 1.

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

<u>Blender purchases 7,120 gallons tax-paid petrodiesel (7,120 × .325) =</u>	<u>\$2,314.00</u>
<u>Blender adds 880 gallons untaxed biodiesel =</u>	<u>\$ .00</u>
<u>Total tax paid on products =</u>	<u>\$2,314.00</u>

The blended product is 8,000 gallons of diesel, which includes 880 gallons (11% by volume) of biodiesel. Thus, the product is taxed as B-11 or higher.

<u>Total tax due on 8,000 gallons blended B-11 or higher (8,000 × .29) =</u>	<u>\$2,320.00</u>
<u>Additional Amount Due =</u>	<u>\$6.00</u>

EXAMPLE 2.

<u>Blender purchases 7,600 gallons tax-paid petrodiesel (7,600 × .325) =</u>	<u>\$2,470.00</u>
<u>Blender adds 400 gallons untaxed biodiesel =</u>	<u>\$ .00</u>
<u>Total tax paid on products =</u>	<u>\$2,470.00</u>

The blended product is 8,000 gallons of diesel, which includes 400 gallons (5% by volume) of biodiesel. Thus, the product is taxed as diesel other than B-11 or higher.

<u>Total tax due on 8,000 gallons diesel other than B-11 or higher (8,000 × .325) =</u>	<u>\$2,600.00</u>
<u>Additional Amount Due =</u>	<u>\$130.00</u>

EXAMPLE 3.

<u>Blender purchases 7,750 gallons tax-paid B-2 (7,750 × .325) =</u>	<u>\$2,518.75</u>
<u>Blender adds 250 gallons untaxed biodiesel =</u>	<u>\$ .00</u>
<u>Total tax paid on products =</u>	<u>\$2,518.75</u>

7,750 gallons of B-2 contains 155 gallons (2%) of biodiesel. The blended product is 8,000 gallons of diesel, which includes 405 gallons (155 + 250, or 5% by volume) of biodiesel. Thus, the product is taxed as diesel other than B-11 or higher.

<u>Total tax due on 8,000 gallons diesel other than B-11 or higher (8,000 × .325) =</u>	<u>\$2,600.00</u>
<u>Additional Amount Due =</u>	<u>\$81.25</u>

b. A blender who purchases diesel products from a supplier must pay the appropriate tax on all diesel products purchased. The blender must obtain a blender's license and compute the tax due on the total gallons of blended product and make payment to the department for any additional amount due. The blender must also obtain a refund permit to receive a refund of any overpayment of tax on the blended product. For purposes of the following examples, the tax rate for B-11 or higher is presumed to be 29¢ per gallon and the tax rate for diesel fuel other than B-11 or higher is presumed to be 32.5¢ per gallon. The actual tax rates for the appropriate period are shown in subrule 68.2(1).

EXAMPLE 1.

<u>Blender purchases 7,120 gallons tax-paid petrodiesel (7,120 × .325) =</u>	<u>\$2,314.00</u>
<u>Blender purchases 880 gallons tax-paid biodiesel (880 × .29) =</u>	<u>\$255.20</u>
<u>Total tax paid on products =</u>	<u>\$2,569.20</u>

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

The blended product is 8,000 gallons of diesel, which includes 880 gallons (11% by volume) of biodiesel. Thus, the product is taxed as B-11 or higher.

<u>Total tax due on 8,000 gallons blended B-11 or higher (8,000 × .29) =</u>	<u>\$2,320.00</u>
<u>Amount of Refund Allowable =</u>	<u>\$249.20</u>

EXAMPLE 2.

<u>Blender purchases 7,600 gallons tax-paid petrodiesel (7,600 × .325) =</u>	<u>\$2,470.00</u>
<u>Blender purchases 400 gallons tax-paid biodiesel (400 × .29) =</u>	<u>\$116.00</u>
<u>Total tax paid on products =</u>	<u>\$2,586.00</u>

The blended product is 8,000 gallons of biodiesel blended fuel, which includes 400 gallons (5% by volume) of biodiesel. Thus, the product is taxed as diesel other than B-11 or higher.

<u>Total tax due on 8,000 gallons blended B-5 (8,000 × .325) =</u>	<u>\$2,600.00</u>
<u>Additional Amount Due =</u>	<u>\$14.00</u>

EXAMPLE 3.

<u>Blender purchases 4,000 gallons tax-paid B-2 (4,000 × .325) =</u>	<u>\$1,300.00</u>
<u>Blender purchases 4,000 gallons tax-paid B-20 (4,000 × .29) =</u>	<u>\$1,160.00</u>
<u>Total tax paid on products =</u>	<u>\$2,460.00</u>

4,000 gallons of B-2 contains 80 gallons (2%) of biodiesel, and 4,000 gallons of B-20 contains 800 gallons (20%) of biodiesel. The blended product is 8,000 gallons of diesel, which includes 880 gallons (80 + 800, or 11% by volume) of biodiesel. Thus, the product is taxed as B-11 or higher.

<u>Total tax due on 8,000 gallons B-11 or higher (8,000 × .29) =</u>	<u>\$2,320.00</u>
<u>Amount of Refund Allowable =</u>	<u>\$140.00</u>

c. Blending errors. Where a blending error occurs and an insufficient amount of biodiesel has been blended so that the mixture fails to qualify as B-11 or higher as defined in rule 701—67.1(452A), the tax shall be determined as described in this subparagraph:

(1) If the amount of the biodiesel in the mixture is short by five gallons or less per blend and the amount of biodiesel is short by 1.01 percent or less of such mixture, the mixture is considered B-11 or higher and there is no penalty or assessment of additional tax.

(2) If the amount of biodiesel in the mixture is short by more than five gallons but the amount of biodiesel is short by 1.01 percent or less of such mixture, the mixture must be divided for tax purposes into B-11 or higher and diesel other than B-11 or higher as follows.

That portion of biodiesel must be added on the basis of 11 parts biodiesel to 89 parts petrodiesel to determine the portion which is considered B-11 and to have a tax status as such. The portions of petrodiesel remaining are considered taxable diesel other than B-11 or higher and subject to tax at the prevailing rate.

(3) If the amount of biodiesel blended in the mixture is short by more than 1.01 percent of the total blend, the entire mixture is considered taxable diesel other than B-11 or higher and subject to tax at the prevailing rate.

(4) The following formulas are used to compute blending errors:

Actual biodiesel + actual petrodiesel = total gallons of blended product

(Actual biodiesel × 89) ÷ 11 = required petrodiesel

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

$$\frac{(\text{Actual petrodiesel} \times 11) \div 89}{\text{Total gallons of blended product} \times .0101} = \frac{\text{required biodiesel}}{\text{gallons of biodiesel tolerance}}$$

$$\text{Required biodiesel} - \text{actual biodiesel} = \text{gallons short of biodiesel}$$

(5) If the gallons short of biodiesel is less than or equal to the biodiesel tolerance, subparagraph (1) or (2) of this paragraph applies. If the gallons short of biodiesel is more than the biodiesel tolerance, subparagraph (3) of this paragraph applies.

(6) Examples. The following factors are assumed for all examples:

Figures are rounded to the nearest whole gallon; B-11 or higher is taxed at \$.29 per gallon; diesel other than B-11 or higher is taxed at \$.325 per gallon. The actual tax rates for the appropriate period are shown in subrule 68.2(1). Penalty and interest charges are not computed in the examples.

EXAMPLE 1.

<u>Total blended product</u>	=	<u>8,984 gal.</u>
<u>Actual petrodiesel</u>	=	<u>8,000 gal.</u>
<u>Actual biodiesel</u>	=	<u>984 gal.</u>
<u>(8,000 × 11) ÷ 89</u>	=	<u>989 gal. required biodiesel</u>
<u>8,984 × .0101</u>	=	<u>91 gal. biodiesel tolerance</u>
<u>989 – 984</u>	=	<u>5 gal. short of biodiesel</u>

The gallons short of biodiesel is five gallons or less, and the gallons short of biodiesel (5) is less than the gallons of biodiesel tolerance (91). Thus, the tax is applied according to subparagraph 68.4(3) "c"(1) as follows:

$$\underline{8,984 \text{ gal. of B-11} \times \$.29} = \underline{\$2,605.36 \text{ tax on the blended product}}$$

EXAMPLE 2.

<u>Total blended product</u>	=	<u>444 gal.</u>
<u>Actual petrodiesel</u>	=	<u>400 gal.</u>
<u>Actual biodiesel</u>	=	<u>44 gal.</u>
<u>(400 × 11) ÷ 89</u>	=	<u>49 gal. required biodiesel</u>
<u>444 × .0101</u>	=	<u>4 gal. biodiesel tolerance</u>
<u>49 – 44</u>	=	<u>5 gal. short of biodiesel</u>

The gallons short of biodiesel is five gallons or less, but the gallons short of biodiesel (5) is greater than the gallons of biodiesel tolerance (4). Thus, the tax is applied according to subparagraph 68.4(3) "c"(3) as follows:

$$\underline{444 \text{ gal. of diesel other than B-11 or higher} \times \$.325} = \underline{\$144.30 \text{ tax on the blended product}}$$

EXAMPLE 3.

<u>Total blended product</u>	=	<u>8,899 gal.</u>
<u>Actual petrodiesel</u>	=	<u>8,000 gal.</u>
<u>Actual biodiesel</u>	=	<u>899 gal.</u>
<u>(8,000 × 11) ÷ 89</u>	=	<u>989 gal. required biodiesel</u>
<u>8,899 × .0101</u>	=	<u>90 gal. biodiesel tolerance</u>
<u>989 – 899</u>	=	<u>90 gal. short of biodiesel</u>

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

The gallons short of biodiesel (90) is equal to the gallons of biodiesel tolerance (90), which means that the tax is applied according to subparagraph 68.4(3) "c"(2) as follows:

$(899 \times 89) \div 11$	=	<u>7,274</u>	gal. petrodiesel portion of B-11
$7,274 + 899$	=	<u>8,173</u>	gal. of B-11
$8,899 - 8,173$	=	<u>726</u>	gal. of petrodiesel
$8,173 \text{ gal. of B-11} \times \$ .29$	=	<u>\$2,370.17</u>	tax on B-11 or higher
$726 \text{ gal. of petrodiesel} \times \$ .325$	=	<u>\$235.95</u>	tax on diesel other than B-11 or higher
<u>TOTAL</u>		<u>\$2,606.12</u>	<u>(\$2,370.17 + \$235.95)</u>

EXAMPLE 4.

<u>Total blended product</u>	=	<u>8,894</u>	gal.
<u>Actual petrodiesel</u>	=	<u>8,000</u>	gal.
<u>Actual biodiesel</u>	=	<u>894</u>	gal.
$(8,000 \times 11) \div 89$	=	<u>989</u>	gal. required biodiesel
$8,894 \times .0101$	=	<u>90</u>	gal. biodiesel tolerance
$989 - 894$	=	<u>95</u>	gal. short of biodiesel

The gallons short of biodiesel (95) is greater than the gallons of biodiesel tolerance (90), which means that the entire mixture is considered diesel other than B-11 or higher and the tax is applied according to subparagraph 68.4(3) "c"(3) as follows:

$$\underline{8,894 \times \$ .325} = \underline{\$2,890.55}$$

EXAMPLE 5.

<u>Total blended product</u>	=	<u>9,000</u>	gal.
<u>B-2 used</u>	=	<u>5,000</u>	gal.
<u>B-20 used</u>	=	<u>4,000</u>	gal.

5,000 gallons of B-2 contains 100 gallons (2%) of biodiesel, and 4,000 gallons of B-20 contains 800 gallons (20%) of biodiesel. Thus, the blended product includes 900 gallons (100 + 800) of biodiesel and 8,100 gallons (9,000 - 900) of petrodiesel.

<u>Actual petrodiesel</u>	=	<u>8,100</u>	gal.
<u>Actual biodiesel</u>	=	<u>900</u>	gal.
$(8,100 \times 11) \div 89$	=	<u>1,001</u>	gal. required biodiesel
$9,000 \times .0101$	=	<u>91</u>	gal. biodiesel tolerance
$1,001 - 900$	=	<u>101</u>	gal. short of biodiesel

The gallons short of biodiesel (101) is greater than the gallons of biodiesel tolerance (91), which means that the entire blend is considered diesel other than B-11 or higher and the tax is applied according to subparagraph 68.4(3) "c"(3) as follows:

$$\underline{9,000 \times \$ .325} = \underline{\$2,925.00}$$

This rule is intended to implement Iowa Code section 452A.8 as amended by ~~1995 Iowa Acts, chapter 155~~ 2015 Iowa Acts, Senate File 257.

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

ITEM 8. Amend rule 701—68.13(452A) as follows:

**701—68.13(452A) Reduction of refund—sales and use tax.** Under Iowa Code section ~~422.45(11)~~ ~~423.3(56)~~, the ~~gross receipts~~ sales price from the sale of motor fuel and special fuel consumed for highway use or in watercraft or aircraft where the fuel tax has been imposed and paid, and no refund has been or will be allowed, ~~are~~ is exempt from Iowa sales and use tax. Therefore, unless the fuel is used for some other exempt purpose under Iowa Code section ~~422.42(3)~~ or ~~422.45~~ 423.3 (e.g., used for processing, used for agricultural purposes, used by an exempt government entity, used by a private nonprofit educational institution), or the fuel is lost through a casualty, the refund of taxes on motor fuel or special fuel will be reduced by the applicable sales and use tax. See sales tax rule 701—18.37(422,423). The ~~sale base~~ sales price upon which the sales and use tax will be applied shall include all federal excise taxes, but will not include the Iowa motor vehicle fuel tax. *W.M. Gurley v. Army Rhoden*, 421 U.S. 200, 44 L.Ed. 110, 95 S.Ct. 1605 (1975).

This rule is intended to implement Iowa Code section 452A.17 as amended by 1995 Iowa Acts, chapter 155.

**ARC 2117C**

**TRANSPORTATION DEPARTMENT[761]**

**Notice of Intended Action**

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

Pursuant to the authority of Iowa Code section 307.12 and section 307A.2 as amended by 2015 Iowa Acts, House File 635, section 20, the Iowa Department of Transportation hereby gives Notice of Intended Action to amend Chapter 10, “Administrative Rules,” Chapter 11, “Waiver of Rules,” and Chapter 12, “Declaratory Orders,” Iowa Administrative Code.

The proposed amendments to Chapter 10 strike the definition of “written criticisms” since this term was removed from Iowa Code section 17A.7, change “department’s administrative rules coordinator” to “department’s rules administrator” for clarity and consistency, clarify what the Department includes in the Notice of Intended Action, strike rules concerning the procedures on nonsubstantive amendments since the Department no longer uses emergency procedures to make nonsubstantive changes, make technical changes, and correct the implementation sentence.

The proposed amendments to Chapter 11 add “rules administrator” and “Iowa” to the address for clarity and consistency, make changes to expand the retention period of waiver records, and correct the implementation sentence.

The proposed amendments to Chapter 12 change “department’s administrative rules coordinator” to “department’s rules administrator.”

These rules do not provide for waivers. Any person who believes that the circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

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

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.
3. Indicate the general content of a requested oral presentation.
4. Be addressed to Tracy George, Rules Administrator, Iowa Department of Transportation, Office of Policy and Legislative Services, 800 Lincoln Way, Ames, Iowa 50010; Internet e-mail address: [tracy.george@dot.iowa.gov](mailto:tracy.george@dot.iowa.gov).
5. Be received by the Office of Policy and Legislative Services no later than September 22, 2015.

## TRANSPORTATION DEPARTMENT[761](cont'd)

A meeting to hear requested oral presentations is scheduled for Thursday, September 24, 2015, at 10 a.m. at the Administration Building, First Floor, South Conference Room, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa.

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

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

These amendments are intended to implement Iowa Code sections 17A.1 to 17A.9A, 17A.19 and 307.12 and section 307A.2 as amended by 2015 Iowa Acts, House File 635, section 20.

The following amendments are proposed.

ITEM 1. Amend rule 761—10.1(17A) as follows:

**761—10.1(17A) General.**

~~10.1(1) Rescinded, effective 1/7/87.~~

~~10.1(2) 10.1(1) Definitions.~~ The definitions in Iowa Code section 17A.2 and the definition of “small business” in Iowa Code section 17A.4A are hereby adopted. In addition:

“*Commission*” means the Iowa transportation commission.

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

“*Director*” means the director of transportation or the director’s designee.

~~“Written criticisms” means:~~

~~1. Petitions for rule making, objections filed pursuant to Iowa Code subsection 17A.4(4), and written and oral submissions received during rule making pursuant to Iowa Code paragraph 17A.4(1)“b.”~~

~~2. Petitions for waiver of a rule tendered to the department or granted by the department under 761—Chapter 11.~~

~~3. Letters to the director criticizing or recommending changes to a rule.~~

~~10.1(3) 10.1(2) Address.~~ The address of the department’s administrative rules coordinator administrator is: Administrative Rules Coordinator Administrator, Office of Policy and Legislative Services, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

ITEM 2. Amend rule 761—10.2(17A) as follows:

**761—10.2(17A) Rule making.**

~~10.2(1) Notice of Intended Action—approval and content.~~ Written authorization to publish proposed rules under Notice of Intended Action in the “Iowa Administrative Bulletin” shall be made by the director. Each commissioner shall be sent a copy of the Notice of Intended Action before its publication in the Iowa Administrative Bulletin. The Notice of Intended Action shall contain:

~~a. Either the complete text of the proposed rules or a summary of the subjects and issues involved. A copy of the complete text of the proposed rules and a brief explanation of the purpose of the proposed rules.~~

~~b. The specific legal authority for the proposed rules.~~

~~b. c. The methods that persons and agencies may use to present their views on the proposed rules. In addition to providing for the submission of written comments, the Notice shall afford any interested person or agency the opportunity to make an oral presentation.~~

~~c. d. Any other information required by statute or rule.~~

~~d. Each commissioner shall be sent a copy of the Notice of Intended Action before its publication in the Iowa Administrative Bulletin.~~

~~10.2(2) No change.~~

~~10.2(3) Adoption and filing of rules.~~

~~a. The director shall adopt proposed rules unless statutes specifically provide for commission adoption. The commission shall approve rules prior to their adoption by the director except as provided in subrule 10.2(5).~~

~~b. No change.~~

~~10.2(4) Regulatory analysis.~~ A request for issuance of a regulatory analysis shall be submitted to the department’s administrative rules coordinator administrator at the address in subrule ~~10.1(3)~~ 10.1(2).

TRANSPORTATION DEPARTMENT[761](cont'd)

~~10.2(5) Nonsubstantive amendments to rules.~~ In reliance upon Iowa Code subsection 17A.4(2), rule making concerning nonsubstantive amendments shall be exempted from Iowa Code subsection 17A.4(1) and subrules 10.2(1) and 10.2(2). Because nonsubstantive amendments do not alter the meaning or consequence of a rule, it is determined unnecessary and contrary to the public interest to expend resources in publishing a Notice of Intended Action and providing an opportunity for public comment during the rule-making process. Nonsubstantive amendments may be adopted and filed by the director. Nonsubstantive amendments shall include the following:

~~a.~~ Correcting the name, address or telephone number of an organizational unit within the department.

~~b.~~ Updating references to the Iowa Code or the Iowa Acts to reflect the most current citation.

~~c.~~ Correcting spelling, typographical or grammatical errors.

~~d.~~ Eliminating references to gender.

~~10.2(6)~~ **10.2(5) Concise statement.** If requested in accordance with this subrule, the department shall issue a concise statement of the principal reasons for and against a rule that has been adopted, incorporating therein the reasons for overruling considerations urged against the rule.

a. The request shall:

(1) No change.

(2) Be submitted in writing to the department's ~~administrative rules coordinator at the address in subrule 10.1(3)~~ administrator.

(3) Be delivered to the ~~coordinator~~ administrator or postmarked no later than the thirtieth calendar day following adoption of the subject rule.

b. A requested concise statement shall be issued either at the time of rule adoption or within 35 days after the department's ~~administrative rules coordinator~~ administrator receives the request.

~~10.2(7)~~ **10.2(6) Registration.**

a. and b. No change.

c. *Submission and acknowledgment of requests.* Requests for registration under this subrule shall be submitted to the department's ~~administrative rules coordinator at the address in subrule 10.1(3)~~ administrator. The receipt of requests for registration shall be promptly acknowledged by the department. The acknowledgment shall either:

(1) and (2) No change.

ITEM 3. Amend rule 761—10.3(17A) as follows:

**761—10.3(17A) Petitions for rule making.**

**10.3(1)** The department shall accept and consider, from any person or agency, petitions for rule making when submitted to the department's ~~administrative rules coordinator at the address in subrule 10.1(3)~~ administrator and prepared in conformance with the following:

a. to c. No change.

~~d.~~ Rescinded IAB 6/8/94, effective 7/13/94.

**10.3(2)** The date of receipt of a petition is the day it reaches the department's ~~administrative rules coordinator~~ administrator. The ~~coordinator~~ administrator shall promptly notify the petitioner of the date of receipt and the assigned docket number.

**10.3(3)** and **10.3(4)** No change.

ITEM 4. Amend **761—Chapter 10**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~chapter 25B~~ and sections 17A.1 to 17A.9, 17A.19, 307.10 and 307.12 and section 307A.2 as amended by 2015 Iowa Acts, House File 635, section 20.

ITEM 5. Amend subrule 11.5(3) as follows:

**11.5(3) Submission of petition.** A petition for waiver from the requirements of a rule shall be submitted to the Rules Administrator, Office of Policy and Legislative Services, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

## TRANSPORTATION DEPARTMENT[761](cont'd)

ITEM 6. Amend subrule 11.8(2) as follows:

**11.8(2)** The office of policy and legislative services shall, at a minimum, retain for five years records relating to waivers granted or denied under this chapter.

ITEM 7. Amend **761—Chapter 11**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~sections 17A.7(2)“b” and~~ section 17A.9A and Executive Order Number 11, dated September 14, 1999.

ITEM 8. Amend subrule 12.2(2) as follows:

**12.2(2)** The petition must be submitted to the department’s ~~administrative rules coordinator~~ administrator at the following address: ~~Administrative Rules Coordinator~~ Administrator, Office of Policy and Legislative Services, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

ITEM 9. Amend subrule 12.2(6) as follows:

**12.2(6)** The date of receipt of the petition is the day it reaches the department’s ~~administrative rules coordinator~~ administrator. The ~~coordinator~~ administrator shall promptly send an acknowledgment of receipt to the petitioner or, if applicable, petitioner’s representative.

**ARC 2126C**

**TRANSPORTATION DEPARTMENT[761]**

**Notice of Intended Action**

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

Pursuant to the authority of Iowa Code sections 307.10 and 312.3C and section 307A.2 as amended by 2015 Iowa Acts, House File 635, section 20, the Iowa Department of Transportation hereby gives Notice of Intended Action to amend Chapter 102, “Secondary Road Fund Distribution Committee,” Iowa Administrative Code.

The proposed amendments to Chapter 102 make the following changes:

- Remove language regarding the transition phase, as that has been completed. The existing rules include a transition phase to implement formulas for distributing county road funding.
- Amend language to directly include the formulas. The existing rules include distribution formulas by reference.
- Clarify that the executive director of the Iowa County Engineers Association Service Bureau serves as a nonvoting member of the Committee.
- Clarify how meeting notices are distributed to county supervisors.
- Update Iowa Code citations and the chapter’s implementation sentence.

The Secondary Road Fund Distribution Committee approved these proposed amendments during its meeting on March 13, 2015.

These rules do not provide for waivers. Any person who believes that the circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

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

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.
3. Indicate the general content of a requested oral presentation.

4. Be addressed to Tracy George, Rules Administrator, Iowa Department of Transportation, Office of Policy and Legislative Services, 800 Lincoln Way, Ames, Iowa 50010; Internet e-mail address: [tracy.george@dot.iowa.gov](mailto:tracy.george@dot.iowa.gov).

## TRANSPORTATION DEPARTMENT[761](cont'd)

5. Be received by the Office of Policy and Legislative Services no later than September 22, 2015.

A meeting to hear requested oral presentations is scheduled for Thursday, September 24, 2015, at 1 p.m. at the Administration Building, First Floor, South Conference Room, Department of Transportation, 800 Lincoln Way, Ames, Iowa.

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

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

These amendments are intended to implement Iowa Code section 312.3C.

The following amendments are proposed.

ITEM 1. Amend rule 761—102.1(312) as follows:

**761—102.1(312) Purpose.** The purpose of these rules is to adopt the ~~initial~~ formulas to be used for distribution of moneys in the secondary road fund and the farm-to-market road fund and to formalize the process by which the secondary road fund distribution committee will administer its duties.

**102.1(1) Iowa Code Supplement** section 312.3C creates a secondary road fund distribution committee and requires the committee to be comprised of representatives appointed by the president of the Iowa County Engineers Association, the president of the Iowa State Association of County Supervisors, and the department of transportation.

**102.1(2) Iowa Code Supplement** section 312.3C requires the secondary road fund distribution committee to:

*a.* Determine the methodology to be used for distribution of moneys in the secondary road fund and the farm-to-market road fund. ~~The methodology shall be phased in over a five-year period, beginning July 1, 2006.~~

*b.* No change.

**102.1(3) Iowa Code Supplement** section 312.3B requires the Iowa County Engineers Association Service Bureau to annually compute secondary road fund and farm-to-market road fund distributions using the methodology determined by the secondary road fund distribution committee.

ITEM 2. Rescind rule 761—102.2(312) and adopt the following new rule in lieu thereof:

**761—102.2(312) Formulas.**

**102.2(1) Definitions.** As used in this chapter:

“*Bridges*” means those structures under the jurisdiction of a county secondary roads department which are included in the National Bridge Inventory System.

“*Daily vehicle miles of travel*” means the product of a road segment’s length, in miles, multiplied by the daily traffic count thereon, in vehicles per day, reported for that segment by the Iowa department of transportation, based on the most recent counts available.

“*Earth surfaced*” means roads under the jurisdiction of a county secondary roads department which are not surfaced.

“*Formula*” means the appropriate secondary road fund distribution formula or farm-to-market road fund distribution formula as defined in subrules 102.2(2) and 102.2(3).

“*Granular surfaced*” means roads under the jurisdiction of a county secondary roads department which have crushed rock, gravel, or oiled earth surfaces.

“*Paved surfaced*” means roads under the jurisdiction of a county secondary roads department with hot mix asphalt, Portland cement concrete, or stabilized base with waterproof surfacing.

“*Rural population*” means the count, taken from the most recently certified decennial federal census, of persons who reside in the unincorporated areas of a county.

**102.2(2) Formula for determining secondary road fund allocation factors.** The Iowa County Engineers Association Service Bureau shall annually compute percentage allocation factors for the allocation of secondary road fund revenues among the counties by calculating and summing the following percentage subtotals for each county:

*a.* Thirty percent times the ratio that the total area of each county bears to the total area of the state.

## TRANSPORTATION DEPARTMENT[761](cont'd)

b. Ten percent times the ratio that the rural population of each county bears to the total rural population of the state.

c. Twelve and one-half percent times the ratio that the total daily vehicle miles of travel on each county's secondary roads bears to the total daily vehicle miles of travel on all secondary roads in the state.

d. One-half percent times the ratio that the earth-surfaced miles of secondary roads of each county bears to the total miles of earth-surfaced secondary roads in the state.

e. Twenty percent times the ratio that the granular-surfaced miles of secondary roads of each county bears to the total miles of granular-surfaced secondary roads in the state.

f. Thirteen percent times the ratio that the paved-surfaced miles of secondary roads of each county bears to the total miles of paved-surfaced secondary roads in the state.

g. Fourteen percent times the ratio that the length, in lineal feet, of secondary road bridges of each county bears to the total length of secondary road bridges in the state.

**102.2(3)** *Formula for determining farm-to-market road fund allocation factors.* The Iowa County Engineers Association Service Bureau shall annually compute percentage allocation factors for the allocation of farm-to-market road fund revenues among the counties by calculating and summing the following percentage subtotals for each county:

a. Thirty percent times the ratio that the total area of each county bears to the total area of the state.

b. Fifteen percent times the ratio that the rural population of each county bears to the total rural population of the state.

c. Ten percent times the ratio that the total daily vehicle miles of travel on each county's farm-to-market roads bears to the total daily vehicle miles of travel on all farm-to-market roads in the state.

d. Nine percent times the ratio that the granular-surfaced miles of farm-to-market roads of each county bears to the total miles of granular-surfaced farm-to-market roads in the state.

e. Twenty-three percent times the ratio that the paved-surfaced miles of farm-to-market roads of each county bears to the total miles of paved-surfaced farm-to-market roads in the state.

f. Thirteen percent times the ratio that the length, in lineal feet, of farm-to-market road bridges of each county bears to the total length of farm-to-market road bridges in the state.

ITEM 3. Amend subrule 102.5(1) as follows:

**102.5(1)** The secondary road fund distribution committee shall be composed of six county engineers, six county supervisors, ~~and~~ two representatives of the department of transportation, and the executive director of the Iowa County Engineers Association Service Bureau.

ITEM 4. Amend subrule 102.5(5) as follows:

**102.5(5)** All county members shall be voting members. The department of transportation representatives and the executive director of the Iowa County Engineers Association Service Bureau shall be nonvoting members.

ITEM 5. Amend rule 761—102.6(312) as follows:

**761—102.6(312) Terms of office and rotation of seats.**

**102.6(1)** Committee members shall serve six-year terms; ~~however, shorter terms shall apply to members of the initial committee, as described in subrule 102.6(3) below.~~ Terms of office shall begin on January 1 in the year of appointment and expire on December 31 in the year of expiration. Members may be reappointed to serve consecutive terms.

**102.6(2)** No change.

~~**102.6(3)** The initial committee is the committee in existence on July 1, 2005. The terms of office and rotations of seats for members of the initial committee shall be as shown in the following table:~~

## TRANSPORTATION DEPARTMENT[761](cont'd)

Year	County Engineer Members	County Supervisor Members	Initial Term Length	Initial Term Ending Date
CY 2006	Large county A	Small county A	1 year	12/31/2006
CY 2007	Medium county A	Medium county A	2 years	12/31/2007
CY 2008	Small county A	Large county A	3 years	12/31/2008
CY 2009	Large county B	Small county B	4 years	12/31/2009
CY 2010	Medium county B	Medium county B	5 years	12/31/2010
CY 2011	Small county B	Large county B	6 years	12/31/2011

The initial committee shall, by resolution and in accordance with this table, assign initial term ending dates to apply to its members.

~~102.6(4)~~ **102.6(3)** As initial terms expire, the incumbents may be reappointed or replaced. ~~Each new term shall be for a full six year period.~~

~~102.6(5)~~ **102.6(4)** If a committee member is unable to complete a term of office for any reason, a replacement member of the same class (county engineer or county supervisor) and from the same group (a large, medium or small county) shall be appointed to serve the balance of the term.

~~102.6(6)~~ **102.6(5)** The committee shall select from its membership a chair and a vice-chair to serve one-year terms. The chair and vice-chair serve at the pleasure of the committee and may be elected to multiple terms as the committee deems appropriate. The vice-chair shall preside at a meeting in the absence of the chair.

ITEM 6. Amend subrule 102.7(6) as follows:

**102.7(6)** In addition to the requirements of Iowa Code chapter 21, the chair shall post meeting agendas on the Iowa County Engineers Association Web site and the Iowa State Association of County Supervisors Web site and shall send copies of agendas to all county engineers and to all county auditors for distribution to supervisors.

ITEM 7. Amend **761—Chapter 102**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~Supplement section~~ sections 312.2, 312.3, 312.3B, 312.3C and 312.5.

## 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, 2014 — September 30, 2014	4.50%
October 1, 2014 — October 31, 2014	4.50%
November 1, 2014 — November 30, 2014	4.50%
December 1, 2014 — December 31, 2014	4.25%
January 1, 2015 — January 31, 2015	4.25%
February 1, 2015 — February 28, 2015	4.25%
March 1, 2015 — March 31, 2015	4.00%
April 1, 2015 — April 30, 2015	4.00%
May 1, 2015 — May 31, 2015	4.00%
June 1, 2015 — June 30, 2015	4.00%
July 1, 2015 — July 31, 2015	4.25%
August 1, 2015 — August 31, 2015	4.25%
September 1, 2015 — September 30, 2015	4.25%

USURY(cont'd)

**ARC 2116C****UTILITIES DIVISION[199]****Notice of Intended Action**

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

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

Pursuant to Iowa Code sections 17A.4 and 476.1 and Iowa Code chapter 476C as amended by 2015 Iowa Acts, House File 645, the Utilities Board (Board) gives notice that on August 5, 2015, the Board issued an order in Docket No. RMU-2015-0001, In re: Renewable Energy Tax Credits, “Order Commencing Rule Making.” The Board is noticing for public comment proposed amendments to 199 IAC 15.19.

The proposed amendments to 199 IAC 15.19 are in response to legislative changes to Iowa Code chapter 476C contained in 2015 Iowa Acts, House File 645, signed by the Governor on June 26, 2015. The legislation amended Iowa Code chapter 476C to expand the list of options for chapter 476C facility ownership to include a municipally owned city utility and a rate-regulated public utility. The Board’s rules must be changed to reflect this amendment.

2015 Iowa Acts, House File 645, made two other changes to Iowa Code chapter 476C. First, the legislation increased the total eligible capacity for nonwind facilities from 53 megawatts (MW) to 63 MW, reserving this 10 MW increase for solar facilities with a generating capacity of 1.5 MW or less that are owned or contracted for by an electric cooperative association, a municipally owned city utility, or a public utility subject to rate regulation. Second, the legislation changed the maximum eligibility for refuse conversion facilities to annual maximums or limits. These two legislative changes do not require changes to the Board’s rules.

Pursuant to Iowa Code sections 17A.4(1)“a” and “b,” any interested person may file a written statement of position pertaining to the proposed amendments. The statement must be filed on or before September 22, 2015. The statement should be filed electronically through the Board’s Electronic Filing System (EFS). Instructions for making an electronic filing can be found on the EFS Web site at <http://efs.iowa.gov>. Any person who does not have access to the Internet may file comments on paper pursuant to 199 IAC 14.4(5). An original and ten copies of paper comments shall be filed. Both electronic and written filings shall comply with the format requirements in 199 IAC 2.2(2) and clearly state the author’s name and address and make specific reference to this docket. All paper communications should be directed to the Executive Secretary, Utilities Board, 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319-0069.

Because the amendments to the rules merely conform the list of options for facility ownership to the changes made in 2015 Iowa Acts, House File 645, a public hearing on the proposed amendments will not be scheduled. A public hearing may be requested pursuant to the procedures set forth in Iowa Code section 17A.4(1)“b.”

The Board does not find it necessary to propose a separate waiver provision in this rule making. While the Board has a general waiver provision in 199 IAC 1.3, the amendments in 2015 Iowa Acts, House File 645, did not give the Board the authority to waive the statutory deadlines, so no waiver provision for these rules is necessary.

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

These amendments are intended to implement Iowa Code section 476.1 and Iowa Code chapter 476C as amended by 2015 Iowa Acts, House File 645.

The following amendments are proposed.

## UTILITIES DIVISION[199](cont'd)

ITEM 1. Amend subparagraph **15.19(1)“b”(7)** as follows:

(7) An electric cooperative association organized pursuant to Iowa Code chapter 499 that sells electricity to end users located in Iowa or has one or more members organized pursuant to Iowa Code chapter 499, a municipally owned city utility as defined in Iowa Code section 362.2, or a public utility subject to rate regulation pursuant to Iowa Code chapter 476;

ITEM 2. Amend subparagraph **15.19(1)“b”(8)** as follows:

(8) A cooperative corporation organized pursuant to Iowa Code chapter 497 or a limited liability corporation organized pursuant to Iowa Code chapter ~~490A~~ 489 whose shares and membership are held by an entity that is not prohibited from owning agricultural land under Iowa Code chapter 9H; or

## ARC 2129C

## NATURAL RESOURCE COMMISSION[571]

## Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code sections 455A.5(6), 481A.38, 481A.39, and 481A.48, the Natural Resource Commission hereby amends Chapter 91, "Waterfowl and Coot Hunting Seasons," Iowa Administrative Code.

Chapter 91 contains the regulations for hunting waterfowl and coot and includes season dates, bag limits, possession limits, shooting hours, and areas open to hunting.

These amendments ensure that the seasons open on weekends. The zones and season dates provide different opening and closing dates for the duck season in each zone and are designed to fit within the federal framework as well as provide waterfowl hunting opportunity during the times of peak waterfowl numbers as well as during hunters' preferred days to be in the field.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 10, 2015, as **ARC 2033C**. A public hearing was held on June 30, 2015. Two comments were received at the hearing, and seven comments were received from the public during the comment period. All comments supported the general season framework, but five of the commenters stated that they would like to see three days of hunting moved from the early season to the late segment of the duck season. Four commenters would like to see the first season opening dates staggered between the zones, and one stated a preference that the youth season be held before the regular season.

There are two changes from the Notice of Intended Action. The bag limit for canvasbacks was increased from one to two, and the bag limit and season length for white-fronted geese and brant were increased due to changes in the federal regulations, which allow a more liberal season and bag limit.

The Commission finds, pursuant to Iowa Code section 17A.5(2)"b"(2) as amended by 2015 Iowa Acts, House File 536, section 27, that the normal effective date of these amendments should be waived and that these amendments should be made effective upon filing as they confer a benefit on the public by establishing a September 5 start date for the waterfowl hunting season.

After analysis and review of this rule making, there will not be an impact on jobs in the state since the changes only adjust for calendar date changes.

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39, and 481A.48. These amendments became effective August 13, 2015.

The following amendments are adopted.

ITEM 1. Amend subrules 91.1(2) to 91.1(5) as follows:

**91.1(2) Season dates - north zone.** Special September teal season: September 6 5 through September 24 20. For all ducks: October 4 3 through October 19 18 and October 25 24 through December 7 6.

**91.1(3) Season dates - south zone.** Special September teal season: September 6 5 through September 24 20. For all ducks: October 4 3 through October 8 7 and October 18 17 through December 11 10.

**91.1(4) Season dates - Missouri River zone.** Special September teal season: September 6 5 through September 24 20. For all ducks: October 4 3 through October 8 7 and October 25 24 through December 18 17.

**91.1(5) Bag limit.** Special September teal season: The daily bag limit is 6 teal of any species. For all ducks: The daily bag limit of ducks is 6, and may include no more than 4 mallards (no more than 2 of which may be females), 1 black duck, 3 wood ducks, 2 pintails, 1 mottled duck, 1 2 canvasback, 2 redheads, and 3 scaup. The daily bag limit of mergansers is 5, only 2 of which may be hooded mergansers.

ITEM 2. Amend subrules 91.3(2) to 91.3(5) and 91.3(8) to 91.3(11) as follows:

**91.3(2) Season dates - north zone.** Dark geese (Canada geese, white-fronted geese, and brant and any other geese that are not light geese): September 27 26 through January 2, 2015 1, 2016. ~~White-fronted geese: September 27 through December 9.~~ Light geese (white and blue-phase snow geese and Ross' geese): September 27 26 through January 11, 2015 10, 2016.

**91.3(3) Season dates - south zone.** Dark geese (Canada geese, white-fronted geese, and brant and any other geese that are not light geese): October 4 3 through January 9, 2015 8, 2016. ~~White-fronted~~

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

~~geese: October 4 through December 16. Light geese (white and blue-phase snow geese and Ross' geese): October 4 3 through January 16, 2015 15, 2016.~~

**91.3(4)** *Season dates - Missouri River zone.* ~~Dark geese (Canada geese, white-fronted geese, and brant and any other geese that are not light geese): October 11 10 through January 16, 2015 15, 2016. White-fronted geese: October 11 through December 23. Light geese (white and blue-phase snow geese and Ross' geese): October 11 10 through January 16, 2015 15, 2016.~~

**91.3(5)** *Bag limit.* The daily bag limit for dark geese (Canada geese, white-fronted geese, brant and any other geese that are not light geese) is 5 and may include no more than 2 Canada geese is 2 from September 25 26 through October 31 and no more than 3 Canada geese from November 1 through the end of the season. ~~The daily bag limits for white-fronted geese, brant, and light geese are 2 white-fronted geese, 1 brant, and 20 limit for light geese (white and blue-phase snow geese and Ross' geese) is 20.~~

**91.3(8)** *Light goose conservation order season.* Only light geese (white and blue-phase snow geese and Ross' geese) may be taken under a conservation order from the U.S. Fish and Wildlife Service from January 17, 2015 16, 2016, through April 15, 2015 2016.

a. to e. No change.

**91.3(9)** *Cedar Rapids/Iowa City goose hunting zone.*

a. *Season dates.* September 6 5 through September 14 13.

b. to d. No change.

**91.3(10)** *Des Moines goose hunting zone.*

a. *Season dates.* September 6 5 through September 14 13.

b. to d. No change.

**91.3(11)** *Cedar Falls/Waterloo goose hunting zone.*

a. *Season dates.* September 6 5 through September 14 13.

b. to d. No change.

ITEM 3. Amend rule 571—91.6(481A) as follows:

**571—91.6(481A) Youth waterfowl hunt.** A special youth waterfowl hunt will be held on September 26 and 27 ~~and 28~~ in the north duck hunting zone, October 10 and 11 ~~and 12~~ in the south duck hunting zone, and October 17 and 18 ~~and 19~~ in the Missouri River duck hunting zone. Youth hunters must be residents of Iowa as defined in Iowa Code section 483A.1A and less than 16 years old. Each youth hunter must be accompanied by an adult 18 years old or older. The youth hunter does not need to have a hunting license or stamps. The adult must have a valid hunting license and habitat stamp if normally required to have them to hunt and a state waterfowl stamp. Only the youth hunter may shoot ducks and coots. The adult may hunt for any other game birds for which the season is open. The daily bag and possession limits are the same as for the regular waterfowl season, as defined in rule 571—91.1(481A). All other hunting regulations in effect for the regular waterfowl season apply to the youth hunt.

[Filed Emergency After Notice 8/13/15, effective 8/13/15]

[Published 9/2/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/2/15.

## ARC 2120C

## EDUCATIONAL EXAMINERS BOARD[282]

## Adopted and Filed

Pursuant to the authority of Iowa Code section 272.1(1)“a,” the Board of Educational Examiners hereby amends Chapter 20, “Renewals,” Iowa Administrative Code.

The Board of Educational Examiners, in collaboration with the Iowa Association of Colleges for Teacher Education, is revising the current system of earning a renewal unit for serving as a cooperating teacher. The amendments strike the current language related to renewal units for cooperating teachers. Hereafter, renewal units will be awarded by the supervising institution pursuant to a new agreement between teacher preparation programs and the Board. A cooperating teacher will still be able to earn renewal units for serving as a cooperating teacher, but colleges will issue the units directly.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2025C** on June 10, 2015. A public hearing took place on July 1, 2015. No one attended the public hearing, and no written comments were received. These amendments are identical to those published under Notice of Intended Action.

These amendments are subject to waiver pursuant to 282—Chapter 6.

The Board of Educational Examiners adopted these amendments on August 7, 2015.

After analysis and review of this rule making, there is no anticipated impact on jobs.

These amendments are intended to implement Iowa Code section 272.2(1)“a.”

These amendments will become effective October 7, 2015.

The following amendments are adopted.

ITEM 1. Amend rule 282—20.5(272) as follows:

**282—20.5(272) Specific renewal requirements for the standard license.**

**20.5(1)** In addition to the provisions set forth in this rule, an applicant must meet the general requirements set forth under rule 282—20.3(272).

**20.5(2)** Six units are needed for renewal. These units may be earned in any combination listed as follows:

*a.* One unit may be earned for each semester hour of graduate credit, completed from a regionally accredited institution, which leads toward the completion of a planned master’s, specialist’s, or doctor’s degree program.

*b.* One unit may be earned for each semester hour of graduate or undergraduate credit, completed from a regionally accredited institution, which may not lead to a degree but which adds greater depth/breadth to present endorsements held.

*c.* One unit may be earned for each semester hour of credit, completed from a regionally accredited institution, which may not lead to a degree but which leads to completion of requirements for an endorsement not currently held.

*d.* One unit may be earned upon completion of each licensure renewal course or activity approved through guidelines established by the board of educational examiners.

*e.* Four units may be earned for successful completion of the National Board for Professional Teaching Standards certification. This certification may be used one time for either the standard or the master educator license.

*f.* ~~One unit may be earned upon successful acquisition of three points from the following activities:~~

~~(1) Mentoring a full semester student teacher (12 or more weeks) is worth two points.~~

~~(2) Mentoring a half semester student teacher (less than 12 weeks) is worth one point.~~

~~(3) Mentoring a practicum student or practicum students (early field experience) equivalent to 60 contact hours (hours may be accrued over several semesters) is worth one point.~~

~~(4) Attending (from start to finish) a cooperating teachers’ workshop in conjunction with mentoring a student teacher or practicum student is worth one point.~~

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

~~(5) Serving as a multiyear member of a teacher education program's advisory committee is worth one point.~~

ITEM 2. Amend rule 282—20.6(272) as follows:

**282—20.6(272) Specific renewal requirements for a master educator license.**

**20.6(1)** In addition to the provisions set forth in this rule, an applicant must meet the general requirements set forth under rule 282—20.3(272).

**20.6(2)** Four units are needed for renewal. These units may be earned in any combination listed below:

*a.* One unit may be earned for each semester hour of graduate credit, completed from a regionally accredited institution, which leads toward the completion of a planned master's, specialist's, or doctor's degree program.

*b.* One unit may be earned for each semester hour of graduate or undergraduate credit, completed from a regionally accredited institution, which may not lead to a degree but which adds greater depth/breadth to present endorsements held.

*c.* One unit may be earned for each semester hour of credit, completed from a regionally accredited institution, which may not lead to a degree but which leads to completion of requirements for an endorsement not currently held.

*d.* One unit may be earned upon completion of each licensure renewal course or activity approved through guidelines established by the board of educational examiners.

*e.* Four units may be earned upon successful completion of the National Board for Professional Teaching Standards certification. This certification may be used one time for either the standard or the master educator license.

~~*f.* One unit may be earned upon successful acquisition of three points from the following activities:~~

~~(1) Mentoring a full-semester student teacher (12 or more weeks) is worth two points.~~

~~(2) Mentoring a half-semester student teacher (less than 12 weeks) is worth one point.~~

~~(3) Mentoring a practicum student or practicum students (early field experience) equivalent to 60 contact hours (hours may be accrued over several semesters) is worth one point.~~

~~(4) Attending (from start to finish) a cooperating teachers' workshop in conjunction with mentoring a student teacher or practicum student is worth one point.~~

~~(5) Serving as a multiyear member of a teacher education program's advisory committee is worth one point.~~

[Filed 8/10/15, effective 10/7/15]

[Published 9/2/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/2/15.

**ARC 2121C**

**EDUCATIONAL EXAMINERS BOARD[282]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 272.1(1)"a," the Board of Educational Examiners hereby amends Chapter 22, "Authorizations," Iowa Administrative Code.

New rule 282—22.11(272) allows the holder of an authorization issued by the Board of Educational Examiners to receive a one-year, nonrenewable extension of that authorization with the approval of the employer's superintendent or designee. This extension is available for persons who have not completed all of the authorization renewal requirements due to unique or extenuating circumstances. The Board's rules provide this option for holders of other types of certification, including teacher licenses and administrator licenses.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2024C** on June 10, 2015. A public hearing took place on July 1, 2015. No one attended the public hearing, and no

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

written comments were received. The new rule is identical to that published under Notice of Intended Action.

This rule is subject to waiver pursuant to 282—Chapter 6.

The Board of Educational Examiners adopted this rule on August 7, 2015.

After analysis and review of this rule making, there is no anticipated impact on jobs.

This rule is intended to implement Iowa Code section 272.2(1)“a.”

This rule will become effective October 7, 2015.

The following amendment is adopted.

Adopt the following **new** rule 282—22.11(272):

**282—22.11(272) Extension.** For authorizations established in this chapter, a one-year extension may be issued if the applicant does not meet the requirements for authorization conversion or renewal. The applicant shall secure the signature of the superintendent or designee of the applicant’s employer and shall submit all required materials before the extension will be issued. This one-year extension is nonrenewable.

This rule is intended to implement Iowa Code section 272.31.

[Filed 8/10/15, effective 10/7/15]

[Published 9/2/15]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 9/2/15.

**ARC 2134C**

**LABOR SERVICES DIVISION[875]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 92.21, the Labor Commissioner hereby amends Chapter 32, “Child Labor,” Iowa Administrative Code.

The amendments are necessary to conform the rules to 2015 Iowa Acts, House File 397.

The principal reasons for adoption of these amendments are to remove obsolete language and implement 2015 Iowa Acts, House File 397.

No variance procedures are included in this rule. Variance procedures are set forth in 875—Chapter 5.

Notice of Intended Action was published in the May 27, 2015, Iowa Administrative Bulletin as **ARC 2014C**. No public comment was received on the proposed amendments.

These amendments are not identical to the amendments published under Notice of Intended Action. Text in Item 4 was changed to reflect that, in Iowa Code chapter 92, the applicant for a child labor permit is the parent, custodian, or guardian, rather than the minor. In Item 4, the text regarding the filing date was changed to more closely align with the statutory language. In Items 4 and 9, changes were made to conform to the counting provision in Iowa Code section 4.1(34). In Item 8, the first sentence of rule 875—32.11(92) was amended to more closely align with Iowa Code chapter 92.

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

These amendments are intended to implement Iowa Code chapter 92 as amended by 2015 Iowa Acts, House File 397.

These amendments shall become effective on October 7, 2015.

The following amendments are adopted.

ITEM 1. Rescind the definitions of “Issuing officer,” “Part-time, occasional, or volunteer work,” and “Superintendent” in rule **875—32.1(92)**.

ITEM 2. Adopt the following **new** definition of “Other work” in rule **875—32.1(92)**:

“*Other work*,” as used in Iowa Code section 92.5(11), includes manual detasseling of corn when performed from power-operated detasseling machines.

## LABOR SERVICES DIVISION[875](cont'd)

ITEM 3. Amend rule **875—32.1(92)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code chapter 92 as amended by ~~2009~~ 2015 Iowa Acts, House File ~~618~~ 397.

ITEM 4. Rescind subrule 32.2(2) and adopt the following **new** subrule in lieu thereof:

**32.2(2) How permits and certificates of age are issued.** The Iowa Child Labor Application/Work Permit must be completed before the minor begins work. The Iowa Child Labor Application/Work Permit is available at the labor division's Web site. The following procedure shall be used to complete the form:

a. The minor, parent, guardian, or custodian shall obtain one of the following documents establishing the minor's age:

- (1) A certified copy of the minor's birth certificate, if it is available.
- (2) If a certified copy of the minor's birth certificate is not available, the minor's passport or a certified copy of the minor's baptismal record.
- (3) If the documents listed in (1) and (2) are not available, one of the following documents shall be used:

1. A visa issued by the U.S. government.
2. A resident alien card issued by the U.S. government.
3. A physician's affidavit certifying the minor's age. A sample physician's affidavit is available at the labor division's Web site.

b. The minor and a parent, guardian, custodian, or head of migrant family shall each complete the applicable portion of the form.

c. The employer shall review, copy, and return the document establishing the minor's age; review permitted hours and duties; complete the employer's portion of the form; and file the form with the labor commissioner.

d. The permit shall be submitted to the office of the labor commissioner within three days after the minor begins work. The day after the minor begins work shall be the first day. If the third day is a Sunday, the form may be filed on the fourth day.

ITEM 5. Amend rule **875—32.2(92)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code chapter 92 as amended by ~~2009~~ 2015 Iowa Acts, House File ~~618~~ 397.

ITEM 6. Rescind and reserve rule **875—32.5(92)**.

ITEM 7. Rescind and reserve rule **875—32.7(92)**.

ITEM 8. Amend rule 875—32.11(92), introductory paragraph, as follows:

**875—32.11(92) Civil penalty calculation.** ~~The labor commissioner shall follow the provisions of this rule when calculating civil penalties for violations of this chapter or Iowa Code chapter 92 as amended by 2009 Iowa Acts, House File 618. 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 9. Rescind subrule 32.11(1) and adopt the following **new** subrule in lieu thereof:

**32.11(1) Counting the number of violations.** Violations shall be counted as follows:

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 on a prohibited day, works at a prohibited time, or works in a prohibited occupation shall be a separate violation.

c. 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.

LABOR SERVICES DIVISION[875](cont'd)

ITEM 10. Amend rule **875—32.11(92)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 92.22 ~~as amended by 2009 Iowa Acts, House File 618.~~

ITEM 11. Amend rule **875—32.12(92)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 92.22 ~~as amended by 2009 Iowa Acts, House File 618.~~

ITEM 12. Rescind and reserve rule **875—32.17(92)**.

[Filed 8/14/15, effective 10/7/15]

[Published 9/2/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/2/15.

**ARC 2133C**

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

### **Adopted and Filed**

Pursuant to the authority of Iowa Code sections 455A.5(6)“a,” 456A.24(7), 461A.4(2) and 463C.17, the Natural Resource Commission hereby amends Chapter 14, “Concessions,” Iowa Administrative Code.

The amendment exempts the future management of Honey Creek Resort State Park (HCR), likely to be provided through third-party concession operators, from existing concession rules found in Chapter 14. HCR's management shall be governed by competitively bid contracts. This is consistent with Iowa Code section 461A.4(2), the statute pertaining to concessions, and will provide a commercial enterprise more flexibility in managing HCR in a profitable and sustainable manner.

This exemption will serve the state in two ways: First, the Department of Natural Resources (DNR) believes this approach will allow a commercial enterprise more flexibility in managing HCR in a profitable and sustainable manner. This approach will support the economic base of the region and communities surrounding HCR. Second, this approach will ensure that a valuable state resource is maintained with minimal public financial and administrative resources. Both the National Park Service and many state park systems, including those in South Dakota and Ohio, use a broader concession authority to manage their hospitality operations in parks.

Current concession rules are geared more toward small concessionaires, such as individuals selling firewood and vending machine food or operating a singular facility in the park, such as a restaurant. Current rules limit a concessionaire in its operations, including the length of contract (five-year maximum), its ability to construct new facilities, and its ability to hire subcontractors. Under the adopted rule, HCR's management would be exempt from the concession rules and would instead be governed by competitively bid contracts, consistent with Iowa Code section 461A.4(2).

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2055C** on July 8, 2015. A public hearing was held on July 28, 2015. No public comments were received. This amendment is identical to that published under Notice.

The Natural Resource Commission adopted this amendment on August 13, 2015.

After analysis and review of this rule making, the amendment may have a positive impact on jobs. HCR currently employs 120 to 180 staff (staff numbers vary between summer and winter). There are 20 full-time, salaried department managers, approximately 100 part-time/full-time staff, and approximately 60 seasonal staff. Although future concession management strategies are unknown, it is unlikely staff requirements would fall below these numbers due to the size of the resort and the amenities currently offered. In fact, DNR assumes that a future operator would retain much of the line management and staff to ensure continuity of operations, thereby preserving the employment of local residents. It is more likely that staffing numbers would increase as the resort expands and diversifies its services, which is what the Commission expects of a concession operator.

NATURAL RESOURCE COMMISSION[571](cont'd)

This amendment is intended to implement Iowa Code sections 461A.4(2), 463C.17, and 456A.24(7).  
This amendment shall become effective October 7, 2015.

The following amendment is adopted.

Adopt the following **new** rule 571—14.9(456A,461A,463C):

**571—14.9(456A,461A,463C) Honey Creek Resort State Park exemption.** The rules in this chapter do not apply to Honey Creek Resort State Park.

[Filed 8/13/15, effective 10/7/15]

[Published 9/2/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/2/15.