



IOWA ADMINISTRATIVE BULLETIN

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PREFACE

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

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

The Bulletin may also contain public funds interest rates [12C.6]; 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.

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CITATION of Administrative Rules

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

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

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

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

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

Schedule for Rule Making 2018

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

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
8	Friday, September 21, 2018	October 10, 2018
9	Friday, October 5, 2018	October 24, 2018
10	Friday, October 19, 2018	November 7, 2018

PLEASE NOTE:

Rules will not be accepted after **12 o'clock noon** on the filing deadline 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*****

ACCOUNTANCY EXAMINING BOARD[193A]

Review of rules; online licensing and renewals; accountancy designations, amendments to chs 3 to 5, 7 to 10, 15 IAB 9/12/18 ARC 3988C	Professional Licensing and Regulation Bureau Offices 200 E. Grand Ave., Suite 350 Des Moines, Iowa	October 3, 2018 9 to 10 a.m.
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ADMINISTRATIVE SERVICES DEPARTMENT[11]

Procurement—certification of targeted small businesses, 117.2, 117.5(2) IAB 8/29/18 ARC 3966C	Conference Room 4, A Level Hoover State Office Bldg. Des Moines, Iowa	September 18, 2018 10 to 11 a.m.
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MEDICINE BOARD[653]

Supervision of physician assistants at remote medical sites, 21.4(6) IAB 9/12/18 ARC 3992C	Board Office, Suite C 400 S.W. Eighth St. Des Moines, Iowa	October 3, 2018 10 a.m.
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PHARMACY BOARD[657]

Wholesale distributor licenses, ch 17 IAB 8/29/18 ARC 3974C	Shared Conference Room, Suite E 400 S.W. Eighth St. Des Moines, Iowa	September 25, 2018 9 a.m.
Limited distributor licenses, ch 42 IAB 8/29/18 ARC 3975C	Shared Conference Room, Suite E 400 S.W. Eighth St. Des Moines, Iowa	September 25, 2018 9 a.m.
Third-party logistics provider licenses, ch 43 IAB 8/29/18 ARC 3976C	Shared Conference Room, Suite E 400 S.W. Eighth St. Des Moines, Iowa	September 25, 2018 9 a.m.

REVENUE DEPARTMENT[701]

Commercial fertilizer and agricultural limestone—exemption from sales and use tax, 17.4, 18.57(1), 226.6 IAB 9/12/18 ARC 4003C	Room 430, Fourth Floor Hoover State Office Bldg. Des Moines, Iowa	October 9, 2018 1 to 2 p.m. (If requested)
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TRANSPORTATION DEPARTMENT[761]

Sanctions, amendments to ch 615 IAB 8/29/18 ARC 3967C	Department of Transportation Motor Vehicle Division 6310 SE Convenience Blvd. Ankeny, Iowa	September 20, 2018 10 a.m. (If requested)
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The following list will be updated as changes occur.

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

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

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

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FEMA DR-4386-IA

AGENCY	PROGRAM	ELIGIBLE APPLICANTS	TYPES OF PROJECTS
<p>Iowa Homeland Security and Emergency Management Department (HSEMD)</p>	<p>Hazard Mitigation Grant Program (HMGP) Authorized by §203 of the Robert T. Stafford Disaster Assistance and Emergency Relief Act (Stafford Act), 42 U.S.C. 5133, as amended by §102 of the Disaster Mitigation Act of 2000 (DMA).</p>	<ul style="list-style-type: none"> • State Agencies and Local Governments. • Federally recognized Indian Tribal governments, to include state recognized Indian Tribes, and Authorized Tribal Organizations. • Private Non Profit (PNP) Organizations or institutions which operate a PNP facility as defined in the 44 Code of Federal Regulations (CFR), Section 206.221(e). • All applicants must be participating in the NFIP if they have been identified as having a Special Flood Hazard Area. The Community must not be on probation, suspended or withdrawn from the NFIP. • All applicants for a project grant MUST have a FEMA-approved local hazard mitigation plan. <p>Application Process: -Potential project & planning applicants must complete a Notice of Interest (NOI) Form located on the HSEMD website at: www.iowahomelandsecurity.org/grants/HMA.html -NOI's will be selected for full application development based on funding availability, the State's priority, and an initial eligibility review. -NOI's will be accepted on a continuous basis or until otherwise notified.</p> <p>For additional information, please contact:</p> <p style="text-align: center;">Dan Schmitz 515-725-9369 Aimee Bartlett 515-725-9364</p> <p style="text-align: center;">Iowa Homeland Security and Emergency Management Department 7900 Hickman Road Windsor Heights, IA 50324</p>	<p>Eligible Project Types</p> <p>Projects may be of any nature that will result in protection to public or private property, including but not limited to:</p> <ul style="list-style-type: none"> • Acquisition or relocation of hazard-prone property for conversion to open space in perpetuity • Construction of safe rooms (tornado and severe wind shelters) • Structural and non-structural retrofitting of existing buildings and facilities (including designs and feasibility studies when included as part of the construction project) for wildfire, seismic, wind or flood hazards (e.g., elevation, flood-proofing, storm shutters, hurricane clips) • Minor structural hazard control or protection projects that may include vegetation management, storm water management (e.g., culverts, floodgates, retention basins), or shoreline/landslide stabilization • Localized flood control projects, such as certain ring levees and floodwall systems, that are designed specifically to protect critical facilities and do not constitute a section of a larger flood control system • Development of multi-jurisdictional hazard mitigation plans and plan updates <p>Planning Application</p> <p>The outcome of a mitigation planning grant award must be a FEMA-approved hazard mitigation plan that complies with the requirements of 44 CFR Part 201. The planning grant deliverable can be a new hazard mitigation plan or an update of an already FEMA-approved hazard mitigation plan.</p>

ARC 3988C**ACCOUNTANCY EXAMINING BOARD[193A]****Notice of Intended Action****Proposing rule making related to review of rules, online licensing and renewals, and accountancy designations and providing an opportunity for public comment**

The Accountancy Examining Board hereby proposes to amend Chapter 3, “Certification of CPAs,” Chapter 4, “Licensure of LPAs,” Chapter 5, “Licensure Status and Renewal of Certificates and Licenses,” Chapter 7, “Certified Public Accounting Firms,” Chapter 8, “Licensed Public Accounting Firms,” Chapter 9, “Reciprocity and Substantial Equivalency,” Chapter 10, “Continuing Education,” and Chapter 15, “Disciplinary Investigations,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 542.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 542.

Purpose and Summary

The proposed amendments to Chapters 3, 4, 5, 7, 8, 10 and 15 reflect partial compliance with Iowa Code section 17A.7(2), which states that beginning July 1, 2012, over each five-year period of time, an agency shall conduct an ongoing and comprehensive review of all of the agency’s rules. The goal of the review is to identify and eliminate all rules that are outdated, redundant, or inconsistent or incompatible with statute or the agency’s rules or the rules of other agencies. The proposed amendments also reflect changes in the Professional Licensing and Regulation Bureau’s administrative processes due to the installation of a new online licensing and renewal system. Additionally, the proposed amendment to Chapter 9 provides for recognition of a broader scope of accountancy designations outside of the United States.

Fiscal Impact

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

Jobs Impact

After analysis and review of this rule making, a positive impact on jobs is found in the proposed amendment to subrule 9.5(2). By recognizing a broader scope of acceptable accountancy designations outside of the United States, Iowa demonstrates a welcoming perspective to individuals from other countries who seek licensure in Iowa.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 193—Chapter 5.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on October 3, 2018. Comments should be directed to:

ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

Robert Lampe
 Iowa Accountancy Examining Board
 200 East Grand Avenue, Suite 350
 Des Moines, Iowa 50309
 Phone: 515.725.9024
 Email: robert.lampe@iowa.gov

Public Hearing

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

October 3, 2018	Suite 350
9 to 10 a.m.	Professional Licensing and Regulation Bureau Offices
	200 East Grand Avenue
	Des Moines, Iowa

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

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend subrule 3.14(1) as follows:

3.14(1) A candidate who successfully passes the examination, completes the ethics course and examination and meets all of the requirements outlined in rule 193A—3.1(542) shall make application for the certificate on a form which may be obtained ~~from the board office~~ or on the board's ~~Web site~~ website. An applicant for a certificate may be denied the certificate for reasons outlined in subrule 3.4(3), 3.4(4), or 3.4(5) regardless of when the incident occurred.

ITEM 2. Rescind and reserve rule **193A—4.5(542)**.

ITEM 3. Amend rule 193A—4.15(542) as follows:

193A—4.15(542) Obtaining the license. A candidate who successfully passes the examination and completes the requirements outlined in rules 193A—4.12(542), 193A—4.13(542) and 193A—4.14(542) shall make application for licensure on a form available ~~from the board office~~ through the online application process. An applicant shall list on the application all states in which the applicant has applied for or holds a certificate, license or permit and shall also list any past denial, revocation, suspension, refusal to renew, or voluntary surrender to avoid disciplinary action of a certificate, license or permit. An applicant shall notify the board in writing within 30 days after the occurrence of any issuance, denial, revocation, suspension, refusal to renew, or voluntary surrender to avoid disciplinary action of a certificate, license or permit by another state. An applicant for licensure may be denied the license for reasons outlined in subrule 4.1(2) regardless of when the incident occurred.

ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

ITEM 4. Amend subrule 4.16(3) as follows:

4.16(3) A person desiring a license as a licensed public accountant in this state on the basis of a licensed public accountant license issued by another state must apply ~~upon a form that may be obtained from the board office~~ through the online application process. The burden is on the applicant to obtain information satisfactory to the board that the applicant's license in such other state is in full force and effect and that the requirements for obtaining such license were substantially equivalent to those of this state to obtain a license as a licensed public accountant.

ITEM 5. Amend rule 193A—5.3(542) as follows:

193A—5.3(542) License renewal.

5.3(1) Licenses issued pursuant to Iowa Code section 542.6 (CPA certificates), 542.8 (LPA licenses), or 542.19 (CPA certificates by substantial equivalency) shall be renewed on an annual basis and shall expire on June 30 of each year. Licenses shall be renewed through ~~electronic on-line~~ the online renewal; ~~except that licensees who are ineligible to renew on-line because they must disclose a criminal conviction or disciplinary order, or for other cause, shall renew upon forms that may be obtained from the board office or on the board's Web site~~ process. An annual renewal fee will be charged.

5.3(2) ~~The board plans to develop a renewal process in which a firm permit to practice and the individual licenses associated with the firm may be renewed together. The board shall adopt rules governing the combined renewal process when further details are known and the technological means to implement the process are in place.~~

ITEM 6. Amend subrule 5.4(1) as follows:

5.4(1) The board typically ~~mails~~ sends, by electronic means, a notice to licensees in the May preceding license expiration, but neither the failure of the board to ~~mail~~ send nor a licensee's failure to receive a renewal notice shall excuse the requirement to timely renew a license.

ITEM 7. Amend subrule 5.5(1) as follows:

5.5(1) A licensee shall submit an electronic ~~on-line~~ online renewal ~~or file a timely and sufficient renewal application with the board by the June 30 deadline in the renewal year. An application shall be deemed filed on the date of electronic renewal or when received by the board or, if mailed, on the date postmarked, but not the date metered.~~

ITEM 8. Amend subrule 5.5(4) as follows:

5.5(4) Within the meaning of Iowa Code section 17A.18(2), a timely and sufficient renewal application shall be:

- a. Received by the board in ~~person or electronic form or postmarked with a nonmetered United States Postal Service postmark~~ on or before the date the license is set to expire or lapse;
- b. ~~Signed by the licensee if submitted in person or mailed, or certified~~ Certified as accurate if ~~submitted electronically through the online renewal process;~~
- c. Fully completed, including continuing education, if applicable; and
- d. Accompanied with the proper fee. The fee shall be deemed improper if, for instance, the amount is incorrect, the fee was not included with the application, the credit card number provided by the applicant is incorrect, the date of expiration of a credit card is omitted or incorrect, the attempted credit card transaction is rejected, or the applicant's check is returned for insufficient funds or a closed account.

ITEM 9. Amend subrule 5.9(2), introductory paragraph, as follows:

5.9(2) Eligibility. A person holding a lapsed or active certificate or license which has not been revoked or suspended may apply ~~on forms provided by the board~~ to renew in inactive status through the online application process if the person is not engaged in the state of Iowa or for clients with a home office in Iowa in any practice for which an active certificate or license is required, including:

ITEM 10. Amend subrule 7.2(1) as follows:

7.2(1) ~~Application forms may be obtained from the board office or on the board's Web site~~ All applications shall be submitted through the board's online application process. The board shall only

ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

process fully completed applications accompanied by the proper fee. A nonrefundable application fee shall be charged.

ITEM 11. Amend rule 193A—7.4(542) as follows:

193A—7.4(542) Annual renewal of permit. Permits to practice must be renewed annually and shall expire on June 30 of each year. Applications to renew a permit to practice may be obtained ~~from the board office or on the board's Web site~~ or through electronic ~~on-line~~ online renewal. While the board generally ~~mails~~ sends, by electronic means, a renewal notice in the May preceding permit expiration, neither the board's failure to ~~mail~~ send a notice nor a permit holder's failure to receive a notice shall excuse the requirement to timely renew and pay the renewal fee.

ITEM 12. Amend subrule 7.5(1) as follows:

7.5(1) The permit holder shall submit an electronic ~~on-line~~ online renewal ~~or file a timely and sufficient renewal application with the board~~ by the June 30 deadline each year. Applications shall be deemed filed on the date of electronic renewal ~~or when received by the board or, if mailed, on the date postmarked, but not the date metered.~~

ITEM 13. Amend subrule 7.5(3) as follows:

7.5(3) Within the meaning of Iowa Code chapters 17A, 272C and 542, a timely and sufficient renewal application shall be:

- a. Received by the board in ~~person or~~ electronic form ~~or postmarked with a nonmetered United States Postal Service postmark on or before the date the permit is set to expire or lapse;~~
- b. Signed by the licensee in charge of the firm's practice if submitted in person or mailed, or certified Certified as accurate if submitted electronically through the online renewal process;
- c. Fully completed and accompanied with the proper fee. The fee shall be deemed improper if, for instance, the amount is incorrect, the fee was not included with the application, the credit card number provided by the applicant is incorrect, the date of expiration of a credit card is omitted or incorrect, the attempted credit card transaction is rejected, or the applicant's check is returned for insufficient funds or a closed account.

ITEM 14. Amend subrule 8.1(2) as follows:

8.1(2) The application ~~may be obtained from the board office or on the board's Web site~~ shall be completed and submitted through the online application process and shall provide sufficient information from which the board can determine that a simple majority of owners hold licenses issued under Iowa Code section 542.8 or certificates issued under Iowa Code section 542.6 or 542.19, are eligible to practice under practice privilege pursuant to Iowa Code section 542.20, or otherwise hold a license or certificate to practice public accounting in another state. At least one owner must be licensed under Iowa Code section 542.8.

ITEM 15. Amend rule 193A—8.2(542) as follows:

193A—8.2(542) Annual renewal of permit. A permit issued under the provisions of Iowa Code section 542.8 shall be renewed annually by June 30 ~~upon forms provided by the board~~. Applications to renew a permit to practice ~~may be obtained from the board office or on the board's Web site or shall be completed and submitted through~~ electronic on-line the online renewal process. While the board generally ~~mails~~ sends, by electronic means, a renewal notice in the May preceding permit expiration, neither the board's failure to ~~mail~~ send a notice nor a permit holder's failure to receive a notice shall excuse the requirement to timely renew and pay the renewal fee.

ITEM 16. Amend subrule 8.3(1) as follows:

8.3(1) The permit holder shall submit an ~~electronic on-line~~ online renewal ~~or file a timely and sufficient renewal application with the board~~ by the June 30 deadline each year. Applications shall be deemed filed on the date of ~~electronic~~ renewal ~~or when received by the board or, if mailed, the date postmarked, but not the date metered.~~

ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

ITEM 17. Amend subrule 8.3(3) as follows:

8.3(3) Within the meaning of Iowa Code chapters 17A, 272C, and 542, a timely and sufficient renewal application shall be:

- a. Received by the board in person or electronic form, ~~or postmarked with a nonmetered United States Postal Service postmark~~ on or before the date the permit is set to expire or lapse;
- b. ~~Signed by the licensee in charge of the firm's practice if submitted in person or mailed, or certified~~ Certified as accurate ~~if submitted electronically through the online renewal process~~;
- c. Fully completed and accompanied with the proper fee. The fee shall be deemed improper if, for instance, the amount is incorrect, the fee was not included with the application, the credit card number provided by the applicant is incorrect, the date of expiration of a credit card is omitted or incorrect, the attempted credit card transaction is rejected, or the applicant's check is returned for insufficient funds or a closed account.

ITEM 18. Amend rule 193A—9.2(542) as follows:

193A—9.2(542) Application forms. Application forms ~~may be obtained from the board office or on the board Web site~~ shall be completed and submitted through the online application process. An applicant shall attest that all information provided on the form is true and accurate. An application may be denied based on a false statement of material fact. A nonrefundable fee shall be charged each applicant as provided in 193A—Chapter 12.

ITEM 19. Amend subrule 9.5(2) as follows:

9.5(2) A person who holds in good standing a certificate, license or designation from a foreign authority that is substantially equivalent to an Iowa CPA certificate shall be deemed qualified for an Iowa CPA certificate if the person satisfies all of the provisions of Iowa Code section 542.19(3). The burden is on the applicant to demonstrate that such certificate, license or foreign designation is in full force and effect and that the requirements for that certificate, license or foreign designation are comparable or superior to those required for a CPA certificate in this state. Original verification from the foreign authority which issued the certificate, license or designation shall be required to demonstrate that such certificate, license or designation is valid and in good standing. If the applicant cannot establish comparable or superior qualifications, the board shall require that the applicant pass the uniform certified public accountant examination designed to test the applicant's knowledge of practice in this state and country. If the applicant is a Canadian Chartered Accountant, Australian Chartered Accountant, Hong Kong CPA, Ireland Chartered Accountant, Mexico Contador Público Certificado (CPC), ~~or New Zealand Chartered Accountant,~~ or Scottish Chartered Accountant, the applicant may be required to take the International Uniform CPA Qualification Examination (IQEX) in lieu of the uniform certified public accountant examination.

ITEM 20. Amend paragraph **10.5(1)“a”** as follows:

a. On each ~~online or paper~~ renewal, a CPA or LPA shall self-select December 31 or June 30 as the date by which continuing education requirements must be satisfied in order to be eligible to renew the certificate or license.

ITEM 21. Amend subrule 10.9(1), introductory paragraph, as follows:

10.9(1) An applicant for renewal may be requested to provide, in such manner, including but not limited to the online renewal process, and at such time as prescribed by the board, ~~a signed statement, under penalty of perjury, on forms provided by the board,~~ verification and documentation setting forth the continuing professional education in which the licensee has participated. The board, ~~in certain instances,~~ may allow for attestation that the licensee has met the requirements in lieu of providing a listing. ~~If the applicant for renewal is requested to provide a listing of the continuing professional education completed, the documentation shall include:~~

ITEM 22. Amend subrule 10.11(2) as follows:

10.11(2) Alternative cycle. ~~Starting with the 2013 renewal cycle, a~~ A CPA or LPA may self-select December 31 or June 30 as the date by which continuing education requirements must be satisfied in

ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

order to be eligible to renew the license or certificate. Online ~~and paper~~ renewal forms will require the renewal applicant to declare whether the continuing education was satisfied within the three-year period preceding December 31 or the three-year period preceding June 30. When declaring a June 30 date, licensees must be cautious to ensure the continuing education is fully completed on or prior to the date the renewal application is submitted. Licensees who renew with penalty during the 30-day grace period following June 30 must declare either December 31 or June 30 and may not extend the deadline beyond June 30.

ITEM 23. Amend subrule 15.5(1), introductory paragraph, as follows:

15.5(1) Contents of a written complaint. Written complaints may be submitted ~~on forms provided by the board which are available from the board office and on the board's Web site~~ through the online complaint process. Written complaints, whether submitted on a board complaint form or in other written medium, shall contain the following information:

ARC 3992C

MEDICINE BOARD[653]

Notice of Intended Action

Proposing rule making related to supervision of physician assistants and providing an opportunity for public comment

The Medicine Board hereby proposes to amend Chapter 21, "Physician Supervision of a Physician Assistant," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code chapters 147, 148 and 272C.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 147, 148 and 272C.

Purpose and Summary

This proposed rule making amends the minimum requirements for a physician who supervises a physician assistant at a remote medical site.

Fiscal Impact

This rule making will likely reduce the administrative costs associated with the supervision of a physician assistant at a remote medical site and increase access to health care services provided at remote medical sites. The rule making will likely have a positive fiscal impact, which is difficult to measure at this time.

Jobs Impact

This rule making will likely reduce the administrative burdens associated with the supervision of a physician assistant at a remote medical site and increase access to health care services provided at remote medical sites. The rule making will likely have a positive jobs impact, which is difficult to measure at this time.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, pursuant to 653—Chapter 3 and rule 653—21.8(17A,147,148,272C).

MEDICINE BOARD[653](cont'd)

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Board no later than 4:30 p.m. on October 3, 2018. Comments should be directed to:

Kent M. Nebel
Iowa Board of Medicine
400 S.W. Eighth Street, Suite C
Des Moines, Iowa 50309
Phone: 515.281.7088
Fax: 515.281.8641
Email: kent.nebel@iowa.gov

Public Hearing

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

October 3, 2018	Board Office
10 a.m.	400 S.W. Eighth Street, Suite C
	Des Moines, Iowa

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

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Amend subrule 21.4(6) as follows:

21.4(6) Remote medical site. ~~The supervisory agreement shall include a provision which ensures that the supervising physician visits a remote medical site to provide additional medical direction, medical services and consultation at least every two weeks or less frequently as specified in unusual or emergency circumstances. When visits are less frequent than every two weeks in unusual or emergency circumstances, the physician shall notify the board in writing of these circumstances within 30 days. "Remote medical site" means a medical clinic for ambulatory patients which is away from the main practice location of a the supervising physician and in which a the supervising physician is present less than 50 percent of the time when the remote medical site is open. "Remote medical site" will not apply to nursing homes, patient homes, hospital outpatient departments, outreach clinics, or any location at which medical care is incidentally provided (e.g., diet center, free clinic, site for athletic physicals, jail facility). The supervisory agreement shall include a provision which ensures that the supervising physician visits the remote medical site, or communicates with a physician assistant at the remote medical site via electronic communications, at least every two weeks to provide additional medical direction, medical services and consultation specific to the medical services provided at the remote medical site. For purposes of this subrule, communication may consist of, but shall not be limited to,~~

MEDICINE BOARD[653](cont'd)

in-person meetings or two-way, interactive communication directly between the supervising physician and the physician assistant via the telephone, secure messaging, electronic mail, or chart review. The supervisory agreement shall also include a provision which ensures that at least one supervising physician meets in person, and documents the meeting, with the physician assistant at the remote medical site at least once every six months to evaluate and discuss the medical facilities, resources, and medical services provided at the remote medical site. The board shall only grant a waiver or variance of this provision if substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in this rule.

ARC 4003C

REVENUE DEPARTMENT[701]

Amended Notice of Intended Action

Providing for a public hearing on rule making related to sales and use tax for commercial fertilizer

The Notice of Intended Action published in the Iowa Administrative Bulletin on July 18, 2018, as **ARC 3886C**, proposes to amend Chapter 17, “Exempt Sales,” Chapter 18, “Taxable and Exempt Sales Determined by Method of Transaction or Usage,” and Chapter 226, “Agricultural Rules,” Iowa Administrative Code. In order to receive oral comments concerning **ARC 3886C**, the Revenue Department hereby gives notice that, if requested, a public hearing will be held as follows:

October 9, 2018
1 to 2 p.m.

Room 430, Fourth Floor
Hoover State Office Building
Des Moines, Iowa

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

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

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 421.17.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 423.3.

Purpose and Summary

This Amended Notice of Intended Action provides a public hearing to receive oral and written comment on the originally submitted Notice, **ARC 3886C**, the details of which are described below.

The Department received a petition for rule making on April 16, 2018, pursuant to Iowa Code section 17A.7 and rule 701—7.29(17A). The petitioner requested a change to rule 701—17.4(422,423) regarding an exemption from sales and use tax for sales of commercial fertilizer. The petition satisfied the requirements set forth in Iowa Code section 17A.7 and rule 701—7.29(17A). Upon review of the rule at issue, the Department agrees that a change to its rules regarding the sale of commercial fertilizer is needed.

Rule 701—17.4(422,423) is intended to implement Iowa Code section 422.42(3), which is now repealed. The legislature amended the sales and use tax provisions of the Iowa Code, including section 422.42, in 2003 to conform to the Streamlined Sales and Use Tax Agreement (Streamlined). Subsequently, the Department adopted new rules to reflect the changes brought about by the State’s participation in Streamlined. Included in those new rules is rule 701—226.6(423), Commercial fertilizer

REVENUE DEPARTMENT[701](cont'd)

and agricultural limestone, which is very similar to rule 701—17.4(422,423). The Department did not rescind or otherwise amend the pre-Streamlined rules at that time.

After considering the petitioner's suggestion to amend rule 701—17.4(422,423), the Department has concluded that rescinding rule 701—17.4(422,423) and amending rule 701—226.6(423) as proposed in **ARC 3886C** is appropriate to provide accuracy in and clarity to the Department's rules.

The Department also proposes to amend subrule 18.57(1) to update a cross reference to rule 701—17.4(422,423).

Fiscal Impact, Jobs Impact, Waivers

Statements related to the fiscal impact, jobs impact, and waiver of this rule making may be found in the preamble of **ARC 3886C**.

Review by Administrative Rules Review Committee

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

ARC 3989C

SECRETARY OF STATE[721]

Notice of Intended Action

Proposing rule making related to local option sales and services tax elections and providing an opportunity for public comment

The Secretary of State hereby proposes to amend Chapter 21, "Election Forms and Instructions," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 17A.3 and 47.1.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 423B and 2018 Iowa Acts, Senate File 2417.

Purpose and Summary

The Secretary of State has determined that as a result of 2018 Iowa Acts, Senate File 2417, proposed rule 721—21.804(423B) is necessary to keep administrative rules in compliance with the Iowa Code. By defining "qualified counties," Senate File 2417 adds a new category of counties and provides for a new method of initiating a local option sales and services tax election. The proposed rule would allow for the new method of initiating a local option sales and services tax election, provided for in Iowa Code section 423B.1(4)"b" as amended by 2018 Iowa Acts, Senate File 2417, section 232, to be utilized for the March 5, 2019, special election date.

Fiscal Impact

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

Jobs Impact

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

SECRETARY OF STATE[721](cont'd)

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Secretary of State no later than 4:30 p.m. on October 2, 2018. Comments should be directed to:

Molly Hammer
Office of the Secretary of State
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: molly.hammer@sos.iowa.gov

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Adopt the following **new** rule 721—21.804(423B):

721—21.804(423B) Local option sales and services tax elections in qualified counties. This rule applies to local option sales and services tax elections held in qualified counties on March 5, 2019, and shall not apply to any local option sales and services tax election held in qualified counties after March 5, 2019. For local option sales and services tax elections held in qualified counties after March 5, 2019, rule 721—21.800(423B) shall control.

21.804(1) For purposes of this rule, “qualified county” means a county with a population in excess of 400,000, a county with a population of at least 130,000 but not more than 131,000, or a county with a population of at least 60,000 but not more than 70,000, according to the 2010 federal decennial census.

21.804(2) Petitions requesting imposition, rate change, use change, or repeal of local sales and services taxes shall be filed with the county board of supervisors.

a. Each person signing the petition shall include the person’s address (including street number, if any) and the date that the person signed the petition.

b. Within 30 days after receipt of the petition, the county board of supervisors shall provide written notice to the county commissioner of elections directing that an election be held to present to the voters of the entire county the question of imposition, rate change, use change, or repeal of a local option sales and services tax. In the notice the supervisors shall include the date of the election.

SECRETARY OF STATE[721](cont'd)

c. The local option sales and services tax election shall be held on the first possible special election date for counties set forth in Iowa Code section 39.2(4) “*a*” but no sooner than 84 days after the date upon which notice is given to the county commissioner of elections.

21.804(3) As an alternative to the method of initiating a local option tax election described in subrule 21.804(2), governing bodies of cities and the county may initiate a local option tax election by filing motions with the county commissioner of elections pursuant to Iowa Code section 423B.1(4) “*b*” as amended by 2018 Iowa Acts, Senate File 2417, section 232, requesting submission of a local option tax imposition, rate change, use change, or repeal to the qualified electors. Within 30 days of receiving a sufficient number of motions, the county commissioner of elections shall notify affected jurisdictions of the local option tax election date. The election shall be held on the first possible special election date for counties set forth in Iowa Code section 39.2(4) “*a*” but no sooner than 84 days after the date upon which the commissioner received the motion triggering the election.

21.804(4) As an alternative to the methods of initiating a local option sales and services tax election described in subrules 21.804(2) and 21.804(3), the governing body of a city located in a county that is a qualified county, or the governing body of a qualified county for the unincorporated area of the qualified county, may initiate a local option sales and services tax election by filing a motion with the county commissioner of elections pursuant to Iowa Code section 423B.1(4) “*b*” as amended by 2018 Iowa Acts, Senate File 2417, section 232, requesting submission of a local option sales and services tax imposition, rate change, use change, or repeal to the qualified electors. Within 30 days of receiving a motion, the county commissioner shall notify affected jurisdictions of the local option sales and services tax election date. The election shall be held on the first possible special election date for counties set forth in Iowa Code section 39.2(4) “*a*” but no sooner than 62 days after the date upon which the commissioner received the motion triggering the election. This subrule applies to motions received by the county commissioner of elections on or after January 1, 2019.

21.804(5) Notice of local option sales and services tax election.

a. Not less than 60 days before the date that a local option sales and services tax election will be held, the county commissioner of elections shall publish notice of the ballot proposition. The notice does not need to include sample ballots but shall include all of the information that will appear on the ballot for each city and for the voters in the unincorporated areas of the county.

b. The city councils and the county supervisors, as applicable, shall provide to the county commissioner the following information to be included in the notice and on the ballots for imposition elections:

(1) The rate of the tax.

(2) The date the tax will be imposed, which shall be the next implementation date provided in Iowa Code section 423B.6 following the date of the election and at least 90 days after the date of the election, except that an election to impose a local option sales and services tax on a date immediately following the scheduled repeal date of an existing similar tax may be held at any time that otherwise complies with the requirements of Iowa Code chapter 423B. The imposition date shall be uniform in all areas of the county voting on the tax at the same election.

(3) The approximate amount of local option sales and services tax revenues that will be used for property tax relief in the jurisdiction.

(4) A statement of the specific purposes other than property tax relief for which revenues will be expended in the jurisdiction.

c. If either of the methods of initiating a local option sales and services tax election described in subrules 21.804(2) and 21.804(3) is utilized, the information to be included in the notice shall be provided to the commissioner by the city councils of each city in the county not later than 67 days before the date of the election. If the method of initiating a local option sales and services tax election described in subrule 21.804(4) is utilized, then the information to be included in the notice shall be provided to the county commissioner of elections by the governing body of the city or the county for the unincorporated area of the county, as applicable, not later than 62 days before the date of the election. If a jurisdiction fails to provide the information in subparagraphs 21.804(5) “*b*”(1), 21.804(5) “*b*”(3), and 21.804(5) “*b*”(4), the following information shall be substituted in the notice and on the ballot:

SECRETARY OF STATE[721](cont'd)

- (1) One percent (1%) for the rate of the tax.
- (2) Zero percent (0%) for property tax relief.
- (3) The specific purpose for which the revenues will otherwise be expended is: Any lawful purpose of the city (or county).

d. The notice of election provided for in Iowa Code section 49.53 shall also be published at the time and in the manner specified in that section.

This rule is intended to implement Iowa Code section 423B.1.

ARC 3990C

UTILITIES DIVISION[199]

Notice of Intended Action

Proposing rule making related to energy efficiency of nonregulated utilities and providing an opportunity for public comment

The Utilities Board hereby proposes to rescind Chapter 36, “Energy Efficiency Planning and Reporting for Natural Gas and Electric Utilities Not Required to Be Rate-Regulated,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 474.5 and 476.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 476.1A(1)“g,” 476.1B(1)“1” and 476.6(15)“d.”

Purpose and Summary

The purpose of this proposed rule making is to rescind and reserve the Board’s rules regarding the energy efficiency of nonregulated utilities as required by Iowa Code section 476.6 as amended by 2018 Iowa Acts, Senate File 2311.

The Board issued an order on August 22, 2018, commencing this rule making. The order provides a full discussion of the proposed amendment. The order is available on the Board’s electronic filing system, efs.iowa.gov, under Docket No. RMU-2018-0001.

Fiscal Impact

The proposed rescission removes energy efficiency requirements in the existing rules as mandated by state law. No additional actions having fiscal impact are being proposed.

Jobs Impact

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

Waivers

No waiver provision is included in the proposed amendment because the Board has a general waiver provision in rule 199—1.3(17A,474,476) that provides procedures for requesting a waiver of the Board’s rules.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on October 2, 2018. Comments should be directed to:

UTILITIES DIVISION[199](cont'd)

Iowa Utilities Board
Electronic Filing System (EFS) at efs.iowa.gov
Phone: 515.725.7337
Email: efshelpdesk@iub.iowa.gov

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Rescind and reserve **199—Chapter 36.**

ARC 3993C

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Adopted and Filed

Rule making related to pre-entry permitting

The Agriculture and Land Stewardship Department hereby amends Chapter 65, “Animal and Livestock Importation,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 163.1.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 163.

Purpose and Summary

These amendments modify the pre-entry import permitting required of businesses due to avian influenza or Newcastle outbreaks in their states. Producers for which permitting is required are identified by their placement in the ten-kilometer circle of an infected site, instead of by the state involved. The time frame for permitting is reduced from 90 days to 30 days. However, the Department may during the 30-day permitting time identify a different area or time based on epidemiological reasons. In addition, the type of test required is modified, and the name of the Newcastle disease is updated.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 18, 2018, as **ARC 3892C**. The Iowa Poultry Association commented in support of the rule making. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on August 22, 2018.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

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

Effective Date

This rule making will become effective on October 17, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend rule ~~21—65.1(163)~~, definition of “Avian influenza- or exotic Newcastle disease-affected state,” as follows:

“Avian influenza- or ~~exotic virulent~~ Newcastle disease-affected state area” or “AI- or ~~END-affected state VND-affected area~~” means ~~any state~~ the ten-kilometer circle in which avian influenza subtype H5 or H7 or ~~END~~ VND virus has been diagnosed in poultry within the last ~~90~~ 30 days prior to importation, unless the department has issued an order during the 30 days identifying a different area or time based on epidemiological reasons.

ITEM 2. Amend subrule 65.2(1) as follows:

65.2(1) Requests for permits should be directed to the Animal Industry Bureau, Department of Agriculture and Land Stewardship, Wallace State Office Building, Des Moines, Iowa 50319, or may be made by telephoning the bureau at (515)281-5547 during normal business hours (~~7:30 a.m. to 4:30 p.m.~~).

ITEM 3. Amend paragraph **65.2(3)“b”** as follows:

b. All domestic fowl or poultry originating from an AI- or ~~END-affected state~~ VND-affected area.

ITEM 4. Amend subrule 65.11(2) as follows:

65.11(2) *Restrictions and limitations, general.*

a. All poultry, domestic fowl, and their hatching eggs being imported into the state and not originating from an AI- or ~~END-affected state~~ VND-affected area must have a pre-entry permit issued by the Iowa Poultry Association. This permit may be obtained by calling (515)727-4701, extension ~~40~~ 100.

b. Importations from an AI- or ~~END-affected state~~ VND-affected area.

(1) Approval. All domestic fowl, live poultry or poultry products from an AI- or ~~END-affected state(s)~~ VND-affected area may be considered for importation on a case-by-case basis following a risk assessment.

(2) Documentation. Poultry or poultry products must originate from a flock that is classified as AI clean under provision of the NPIP. The CVI must indicate that the poultry or poultry products originate from an AI- or ~~END-negative~~ VND-negative flock and include a description of the birds, the test date, test results, and the name of the testing laboratory. The initial tests required for pre-entry permitting of a flock from an AI-affected area include polymerase chain reaction (PCR) and agar gel precipitin (AGP) or enzyme-linked immunosorbent assay (ELISA). The PCR test is required for subsequent permitting during the originating area’s continuous designation as AI-affected. PCR is the test required of a flock from a VND-affected area.

(3) Pre-entry permit. All domestic fowl, live poultry or poultry products originating from an AI- or ~~END-affected state~~ VND-affected area must have a pre-entry permit issued by the state veterinarian. Requests for pre-entry permits should be directed to the Animal Industry Bureau, Department of Agriculture and Land Stewardship, Wallace State Office Building, Des Moines, Iowa 50319, or may be made by telephoning (515)281-4103 during normal business hours.

(4) No change.

[Filed 8/22/18, effective 10/17/18]

[Published 9/12/18]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 9/12/18.

ARC 3994C**ALCOHOLIC BEVERAGES DIVISION[185]****Adopted and Filed****Rule making related to personal importation of alcoholic liquor, wine, and beer**

The Alcoholic Beverages Division hereby adopts new Chapter 9, “Personal Importation of Alcoholic Liquor, Wine, and Beer,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 123.10.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2018 Iowa Acts, Senate File 2347.

Purpose and Summary

This rule making implements changes made to the Iowa Code enacted in 2018 Iowa Acts, Senate File 2347. Chapter 9 establishes a procedure for the issuance of a waiver for an individual of legal age desiring to import alcoholic liquor, wine, or beer in excess of the amount provided in Iowa Code section 123.22 as amended by 2018 Iowa Acts, Senate File 2347, section 2; Iowa Code section 123.171 as amended by 2018 Iowa Acts, Senate File 2347, section 5; or 2018 Iowa Acts, Senate File 2347, section 4, as applicable.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 18, 2018, as **ARC 3891C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Division on August 22, 2018.

Fiscal Impact

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

Jobs Impact

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

Waivers

Granting or denying a request for the issuance of a waiver pursuant to new Chapter 9 is final agency action under Iowa Code chapter 17A. Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Division for a waiver of the discretionary provisions, if any, pursuant to 185—Chapter 19.

Review by Administrative Rules Review Committee

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

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Effective Date

This rule making will become effective on October 17, 2018.

The following rule-making action is adopted:

Adopt the following **new** 185—Chapter 9:

CHAPTER 9

PERSONAL IMPORTATION OF ALCOHOLIC LIQUOR, WINE, AND BEER

185—9.1(123) Tax liability. The division makes no judgment or decision regarding any tax liability resulting from the personal importation of alcoholic liquor, wine, or beer as provided in Iowa Code section 123.10 as amended by 2018 Iowa Acts, Senate File 2347, section 1; Iowa Code section 123.22 as amended by 2018 Iowa Acts, Senate File 2347, section 2; Iowa Code section 123.171 as amended by 2018 Iowa Acts, Senate File 2347, section 5; or 2018 Iowa Acts, Senate File 2347, section 4, as applicable.

185—9.2(123) Personal importation in excess of the amounts provided—waiver. The administrator may provide for the issuance of a waiver for an individual of legal age desiring to import alcoholic liquor, wine, or beer in excess of the amounts provided in Iowa Code section 123.22 as amended by 2018 Iowa Acts, Senate File 2347, section 2; Iowa Code section 123.171 as amended by 2018 Iowa Acts, Senate File 2347, section 5; or 2018 Iowa Acts, Senate File 2347, section 4. The decision on whether the circumstances justify the issuance of a waiver shall be made at the discretion of the administrator upon consideration of all the relevant factors.

9.2(1) Criteria. The division may, in response to a completed request, issue a waiver, as applied to the circumstances of a specific situation if the division finds each of the following:

- a. The requester is an individual of legal age;
- b. The requester is an individual who was domiciled outside the state within one year of the request;
- c. The alcoholic liquor, wine, or beer imported pursuant to the waiver shall be only for personal consumption in a private home or other private accommodation and only if it is not sold, exchanged, bartered, dispensed, or given in consideration of purchase for any property or services or in evasion of the requirements of Iowa Code chapter 123; and
- d. The alcoholic liquor, wine, or beer imported pursuant to the waiver shall be in unopened original containers.

9.2(2) Domicile. Domicile, for the purposes of establishing when an individual is “domiciled outside the state,” shall be determined in accordance with rule 701—38.17(422).

9.2(3) Request. All requests for a waiver to import alcoholic liquor, wine, or beer in excess of the amount provided in Iowa Code section 123.22 as amended by 2018 Iowa Acts, Senate File 2347, section 2; Iowa Code section 123.171 as amended by 2018 Iowa Acts, Senate File 2347, section 5; or 2018 Iowa Acts, Senate File 2347, section 4, shall be submitted in writing by completing a request for import authorization form and returning it to the division, as instructed.

9.2(4) Content of form. A request for import authorization form shall be prescribed by the division and shall include the following information: the name, date of birth, and personal contact information of the requester; full residential history of the requester for the past three years without gaps; a statement of reasons that the requester believes will justify import authorization; the destination address for the imported alcoholic beverages; the name, date of birth, and personal contact information of the recipient of the alcoholic beverages, if different from that of the requester; a detailed inventory of the alcoholic beverages for which the requester seeks import authorization; and any other information the administrator may require.

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9.2(5) *Burden of persuasion.* When a request is filed for a waiver pursuant to this rule, the burden of persuasion shall be on the requester to demonstrate by clear and convincing evidence that the division should exercise its discretion in the granting of the waiver.

9.2(6) *Notice.* The division shall acknowledge a request for a waiver upon receipt of a completed request for import authorization form.

9.2(7) *Additional information.* Prior to granting or denying a request for a waiver, the division may request additional information from the requester relative to the request and surrounding circumstances.

9.2(8) *Investigation.* The division may conduct an investigation as the administrator deems necessary to determine that the requester meets the criteria in subrule 9.2(1) or to verify the accuracy of the information provided by the requester.

9.2(9) *Ruling.* A letter granting or denying a request for a waiver to import alcoholic liquor, wine, or beer in excess of the amount provided in Iowa Code section 123.22 as amended by 2018 Iowa Acts, Senate File 2347, section 2; Iowa Code section 123.171 as amended by 2018 Iowa Acts, Senate File 2347, section 5; or 2018 Iowa Acts, Senate File 2347, section 4, shall be in writing and shall contain a description of the precise scope and duration of the waiver if one is issued.

9.2(10) *Duration of waiver.* A waiver issued pursuant to this rule shall allow only for the importation of the inventory of alcoholic beverages detailed on the request for import authorization form. If a waiver is granted, there is no automatic right to renewal.

9.2(11) *Public availability.* The division shall maintain a record of all waivers granted or denied under this rule. All rulings in response to requests for waivers shall be indexed and available to members of the public at the Alcoholic Beverages Division, 1918 S.E. Hulsizer Road, Ankeny, Iowa 50021. Waivers containing information that the division is authorized or required to keep confidential shall be edited prior to public inspection.

9.2(12) *Cancellation.* A waiver issued by the division pursuant to this rule may be withdrawn, canceled, or modified if, after appropriate notice, the division finds any of the following:

- a.* The requester of the waiver withheld or misrepresented material facts relevant to the propriety or desirability of the waiver; or
- b.* The recipient of the waiver has failed to comply with any of the conditions contained in the waiver.

9.2(13) *Violations.* Violation of a condition in a waiver is equivalent to a violation of Iowa Code section 123.10 as amended by 2018 Iowa Acts, Senate File 2347, section 1; Iowa Code section 123.22 as amended by 2018 Iowa Acts, Senate File 2347, section 2; Iowa Code section 123.171 as amended by 2018 Iowa Acts, Senate File 2347, section 5; or 2018 Iowa Acts, Senate File 2347, section 4, as applicable. The recipient of a waiver under this rule who violates a condition of the waiver may be subject to the same remedies or penalties as a person who violates the applicable Iowa Code or Iowa Acts section.

9.2(14) *Defense.* After the division grants a waiver under this rule, the waiver is a defense within its terms and the specific facts indicated therein for the recipient of the waiver in any proceedings in which the waiver in question is sought to be invoked.

9.2(15) *Appeals.* Granting or denying a request for a waiver is final agency action under Iowa Code chapter 17A.

These rules are intended to implement 2018 Iowa Acts, Senate File 2347, section 4, and Iowa Code sections 123.10, 123.22, 123.59 and 123.171 as amended by 2018 Iowa Acts, Senate File 2347.

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[Published 9/12/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/12/18.

ARC 3995C

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Rule making related to management of household hazardous materials and hazardous waste

The Environmental Protection Commission hereby amends Chapter 119, “Used Oil and Used Oil Filters”; rescinds Chapter 123, “Regional Collection Centers and Mobile Unit Collection and Consolidation Centers,” and adopts a new Chapter 123, “Regional Collection Centers and Satellite Facilities”; rescinds Chapter 144, “Household Hazardous Materials”; amends Chapter 211, “Financial Assistance for the Collection of Household Hazardous Materials and Hazardous Waste from Conditionally Exempt Small Quantity Generators”; and rescinds Chapter 214, “Household Hazardous Materials Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 455B.304(10), 455D.7(1), 455E.9(1) and 455F.5.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 455E and 455F.

Purpose and Summary

These amendments are necessary to provide consistency between Chapters 119, 123 and 211 and Iowa Code chapters 455E and 455F. In addition, the amendments incorporate for consistency the United States Environmental Protection Agency’s (U.S. EPA’s) recent terminology change to 40 CFR 262.13, which addresses hazardous waste generator categories. Other amendments update terminology and provide clarification regarding regulatory requirements. Specifically, the amendments:

- Amend Chapter 119 to remove references to Chapter 144, which is rescinded herein;
- Rescind and replace Chapter 123 to eliminate the requirement for regional collection centers (RCCs) to obtain sanitary disposal project permits;
- Rescind Chapter 144 pursuant to recent changes to the Iowa Code that were enacted in 2016 Iowa Acts, Senate File 2181;
- Amend Chapter 211 to clarify and expand financial assistance opportunities to regional collection centers (RCCs) for both the collection and proper management of hazardous waste and to establish and expand RCCs and satellite facilities and services provided to citizens and very small quantity generator (VSQG) businesses; and
- Rescind Chapter 214 pursuant to recent changes to the Iowa Code that were enacted in 2016 Iowa Acts, Senate File 2181.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 6, 2018, as **ARC 3826C**. A public hearing was held on June 27, 2018, at 1 p.m. in Conference Room 4 West of the Wallace State Office Building, Des Moines, Iowa. No one attended the public hearing.

Seven commenters provided written comments. Five commenters simply stated support for the rules as proposed. The other two commenters provided written comments on the following subjects: the 180-day accumulation limit guidelines, no permit requirements for satellite facilities, and the removal of satellite facilities from the sanitary disposal project host permit provisions. The commenters also requested that the Department of Natural Resources (Department) or the Commission speculate whether state moneys for “funding support” will decrease in the coming years. A copy of the Department’s responsiveness summary is available upon request. No changes from the Notice have been made.

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Adoption of Rule Making

This rule making was adopted by the Commission on August 21, 2018.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on October 17, 2018.

The following rule-making actions are adopted:

ITEM 1. Rescind subrule **119.6(5)**.

ITEM 2. Rescind subrule **119.7(4)**.

ITEM 3. Rescind 567—Chapter 123 and adopt the following **new** chapter in lieu thereof:

CHAPTER 123
REGIONAL COLLECTION CENTERS AND SATELLITE FACILITIES

567—123.1(455F) Purpose. The purpose of this chapter is to implement operating license requirements for regional collection centers and satellite facilities which provide for the collection and proper disposal of household hazardous materials (HHMs) and hazardous waste from very small quantity generators (VSQGs).

567—123.2(455B,455D,455F) Definitions. For the purposes of this chapter, these terms shall have the following meanings:

“*Department*” means the Iowa department of natural resources.

“*Hazardous waste*” or “*HW*” means the same as defined in Iowa Code section 455B.411.

“*Hazardous waste contractor*” means a private company that provides proper management (e.g., disposal, recycling) of hazardous waste. “Hazardous waste contractor” does not include regional collection centers.

“*Household hazardous material*” or “*HHM*” means the same as defined in Iowa Code section 455F.1.

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“*Household hazardous waste*” or “*HHW*” means an HHM as defined in Iowa Code section 455F.1 which has served its intended use and is designated for disposal.

“*RCC mobile unit*” or “*mobile unit*” means a truck or trailer owned and operated under the direction of a regional collection center that can be moved to different sites within a region. A mobile unit is used to perform collection events and to transport collected materials to an RCC for sorting and consolidation.

“*Regional collection center*” or “*RCC*” means the same as defined in Iowa Code section 455F.1.

“*Satellite facility*” means the same as defined in Iowa Code section 455F.1.

“*Very small quantity generator*” or “*VSQG*” means a generator that generates less than or equal to the following amounts in a calendar month:

1. 100 kilograms (220 lbs) of non-acute hazardous waste;
2. 1 kilogram (2.2 lbs) of acute hazardous waste listed in 40 CFR 261.31 or 40 CFR 261.33(e);
3. 100 kilograms (220 lbs) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in 40 CFR 261.31 or 40 CFR 261.33(e).

567—123.3(455F) Regional collection center license and license renewal. A license or license renewal will be issued under the following conditions:

123.3(1) License.

a. An RCC shall not operate without a license issued by the department. RCCs in existence prior to January 14, 2019, will automatically be issued an operating license.

b. A satellite facility shall not be required to obtain a license.

123.3(2) Compliance. An RCC and satellite facility must be in compliance with current local, state and federal statutes and regulations regarding the management, storage, transportation and disposition of HHM, HHW and HW from VSQGs.

123.3(3) Construction. An RCC shall not be constructed without review of the site plan and written approval of the site plan by the department. The approved plans and specifications shall constitute a condition of the initial operating license.

123.3(4) Inspection prior to commencing initial operation. The department shall be notified before an RCC or satellite facility begins operations. No HHM or HW from VSQGs shall be accepted by the RCC or satellite facility until the facility has been inspected and approved by the department.

123.3(5) Duration and renewal of license. The initial license issued may be renewed for a period of five years. If the license applicant is a private agency under contract with a local government, the license shall not extend past the end date of the contract. An entity designated as an environmental management system pursuant to Iowa Code section 455J.7 may opt out of the license renewal requirement provided the entity is in compliance with 123.3(2) and there has been no change in the provisions of the current license. Any change in the provisions of the current license requires department notification as described in 123.3(7).

123.3(6) Request and approval of initial license or license renewal. A new RCC shall file a request for a license on a form provided by the department. An established RCC shall file a request for license renewal 45 calendar days prior to the expiration of the current license, via hard-copy request or electronically, on a form provided by the department. A renewal shall be issued within 30 business days if the facility is in compliance with Iowa Code chapters 455B, 455D and 455F and the conditions of the current license.

123.3(7) License modification. An RCC shall request to modify its license by notifying the department of changes to any provision of its license via hard-copy or electronic correspondence. An RCC shall notify the department within 30 calendar days of a planned change to the provisions of its license and within 7 calendar days of an unplanned change to the provisions of its license. Upon approval of a request to modify an RCC license, the department will issue a license modification within 14 business days of approving the license modification request.

567—123.4(455F) Site, structure, storage, and staff qualifications. RCCs, satellite facilities and mobile units shall each meet the following criteria.

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123.4(1) Siting. A site selected for an RCC, satellite facility or mobile unit shall meet the following criteria:

a. An RCC, satellite facility or mobile unit used for the collection of VSQG waste and HHMs shall be sited on public property or on private property if an agreement exists that guarantees public access. Documentation of the private property agreement for RCCs and satellite facilities shall be provided to the department upon request or upon application and renewal for license.

b. The site shall provide adequate secondary containment in case of a spill or other possible on-site contamination.

c. The site shall meet all applicable zoning requirements.

d. The site shall be adequately sized to accommodate all structures, units and activities that will take place on the site.

e. RCCs and satellite facilities shall each have adequate security to prevent unauthorized access. Adequate security may include, but is not limited to, a fence and locking gate.

f. All mobile units and the containers used to package collected materials shall comply with applicable Iowa department of transportation rules and guidelines. At each mobile unit site, the mobile unit shall rest on a pad of a chemical-resistant, impervious, smooth material that provides secondary containment in case of a spill. A temporary surface created by securing an impervious tarp to the unloading/receiving area will meet the requirements of an impervious surface. A plan for conducting mobile unit collection events must consider the possibility of inclement weather. The plan must ensure that collected HHM and VSQG hazardous waste have protection from the elements and must minimize the risk of environmental contamination.

123.4(2) Structures. RCC or satellite facility structures shall each meet the following criteria:

a. All structures shall be sized to adequately accommodate the collection, sorting, bulking and lab packing, packaging for disposal, and temporary storage of HHM and HW from VSQGs.

b. All permanent structures shall meet the requirements of applicable fire codes and building codes.

c. RCC structures and satellite facility structures shall each be designed to prevent run-on entering from adjacent areas.

d. All receiving areas shall have a storage capacity of at least one day's processing capacity.

e. All receiving, sorting, bulking, transfer and storage area surfaces shall be constructed of a chemical-resistant, impervious, smooth material so designed to be easily cleaned, nonreactive with the waste, and with proper drainage, in the form of sloped flooring, plastic-lined pits or concrete sumps, according to applicable codes. Areas used for the receiving, bulking, transferring, lab packing and storing of HHM, HHW and VSQG hazardous waste shall be provided with secondary containment and shall be protected from exposure to the weather.

123.4(3) Storage. All full containers of HHW and hazardous wastes from VSQGs must be stored in a building designed in accordance with Group H occupancy requirements and local, state and federal fire codes. It is required that HW or HHW accumulated for disposal not be accumulated on site for more than 180 days. Once the capacity limit of a collection site or time limit is reached, all waste collected shall be collected by a licensed hazardous waste contractor.

123.4(4) Staff qualifications. Prior to handling any HHM or HW, RCC and satellite facility staff shall each have received applicable training conducted by trainers who meet Occupational Safety and Health Administration (OSHA) instructor qualification standards. Training shall include but is not limited to the following:

a. OSHA 24-hour health and safety training as described in 29 CFR 1910.120.

b. Annual 8-hour refresher training as described in 29 CFR 1910.120.

c. Hazardous materials chemistry.

d. Personnel and site safety.

e. Proper lab packing techniques.

f. Proper transporting of hazardous materials.

g. When applicable, U.S. Department of Transportation hazardous materials training for the operation of a mobile unit used in the collection and transportation of HHM and HW from VSQGs.

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567—123.5(455F) Operations plans and procedures.

123.5(1) RCCs and satellite facilities must each prepare and maintain on site a current plan of operations.

123.5(2) Operations plan. The operations plan shall include, at a minimum, the following information:

- a.* Schedule of operations, including hours of operation for RCCs or satellite facilities.
- b.* Site selection procedures for mobile unit collections.
- c.* Standard receiving procedures for HHM and VSQG HW.
- d.* Procedures for managing unknown materials.
- e.* Procedures for handling open or leaking containers.
- f.* Procedures for managing large quantities of wastes.
- g.* Recycling and reuse procedures for usable materials.
- h.* Disposal of nonhazardous waste.
- i.* Personal protection equipment (PPE).
- j.* Initial training requirements and continuing education of staff.
- k.* An emergency response plan, such as the facility's response to spills, fires or weather-related events.

567—123.6(455F) Closure notification. RCCs and satellite facilities shall each notify the department via hard-copy or electronic correspondence at least 60 calendar days prior to ceasing operations.

123.6(1) The notification shall include, at a minimum, the following information:

- a.* A description of how the RCC or satellite facility will notify the public within its service area that the RCC or satellite facility is closing and how HHM and HW from VSQGs should be managed after closure of the facility.
- b.* A description of how all HHM, HHW and HW from VSQGs will be removed from the RCC or satellite facility and properly managed within 60 calendar days of the RCC's or satellite facility's ceasing operations.
- c.* A description of how final waste disposal costs will be paid.

123.6(2) After removal of HHW and VSQG HW, a final inspection shall be conducted by department staff.

567—123.7(455F) Regional collection center reporting requirements. On a form supplied by the department, each RCC shall submit to the department a correctly completed RCC semiannual report. The report shall include, but not be limited to, the pounds of materials managed through a reuse program, by hazardous waste contractors, and by nonhazardous waste contractors. All hazardous waste contractor invoices shall be attached. Such invoices shall depict hazardous material types, net weight of hazardous materials, and associated collection and disposal costs charged by the hazardous waste contractor to the RCC. RCC semiannual reports shall be submitted by September 15 for the portion of the current calendar year January 1 through June 30, and by March 15 for the portion of the previous calendar year July 1 through December 31.

These rules are intended to implement Iowa Code chapter 455F.

ITEM 4. Rescind and reserve **567—Chapter 144**.

ITEM 5. Amend **567—Chapter 211** as follows:

CHAPTER 211
FINANCIAL ASSISTANCE FOR THE ~~COLLECTION~~ MANAGEMENT OF HOUSEHOLD
HAZARDOUS MATERIALS AND HAZARDOUS WASTE FROM ~~CONDITIONALLY EXEMPT~~
VERY SMALL QUANTITY GENERATORS

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567—211.1(455E,455F) Purpose. The purpose of this program is to reduce the amount of hazardous materials disposed of in Iowa's sanitary landfills, thereby protecting groundwater resources, the health and safety of Iowa citizens, and the environment.

The costs and accessibility of hazardous materials management can be improved by the establishment and maintenance of a system of regional collection centers (RCCs) and satellite facilities for the safe and proper disposal management of household hazardous materials and hazardous materials from ~~conditionally exempt~~ very small quantity generators (~~CESQGs~~) (VSQGs). Therefore, the department may provide financial assistance for costs associated with establishing or improving RCCs and satellite facilities, when such funding is available. The department may also provide financial assistance for ongoing collection and disposal costs for RCCs and MUCCCs ~~whether public agencies or activities which result in eligible private agencies operate them~~ pounds, when such funding is available.

567—211.2(455E,455F) Definitions. The definitions set out in Iowa Code section 455B.301 shall be considered to be incorporated verbatim in these rules. For the purposes of this chapter, these terms shall have the following meanings:

"Applicant for ~~an~~ RCC establishment grant RCC or satellite facility financial assistance" means an RCC or satellite facility operated by a private agency, a local government or a public agency representing local governments pursuant to Iowa Code chapter 28E.

"Conditionally exempt small quantity generator" or *"CESQG"* means a generator that in a calendar month generates no more than 100 kilograms of hazardous waste in that month and is further defined by 40 CFR 261.5.

"Department" means the Iowa department of natural resources.

"Eligible private agency" means a privately owned landfill, transfer station or citizen convenience center which acts as an RCC or MUCCC as part of an approved comprehensive plan pursuant to Iowa Code section 455B.306. The facility must either include hazardous waste collection activities in its SDP permit or have an RCC or MUCCC permit in accordance with the requirements of 567—Chapter 123.

"Eligible pounds" means household hazardous waste or hazardous waste from VSQGs which is disposed of or recycled by a licensed hazardous waste contractor. VSQG hazardous waste for which an RCC is required to charge a fee under Iowa Code section 455F.8A is considered eligible pounds if there is a corresponding disposal charge from a hazardous waste contractor. "Eligible pounds" means net weight as shown on the final disposition documents. A manifest shows an estimated weight and cannot be used to determine eligible pounds. VSQG hazardous waste or household hazardous waste which has no disposal cost, or for which RCCs receive compensation or charge a fee, is not eligible pounds. Materials such as cathode ray tubes, electronics, and used oil which are not destined for final disposal, but are instead recycled for reuse of components, are not eligible pounds.

"Financial assistance" means monetary assistance including grants, cash payments, or support by other financial means.

"Hazardous materials disposal costs" means costs incurred from a hazardous waste contractor for disposal of household hazardous materials and hazardous waste from conditionally exempt small quantity generators. Costs may include, but are not limited to, transportation to the hazardous waste contractor, incineration, fuel blending, hazardous waste landfilling, and waste profile testing. ~~"Hazardous materials disposal costs" does not include transportation from a satellite to a main RCC facility, staff time, equipment, overhead costs, or costs to dispose of waste that is not HHM or a hazardous material.~~

"Hazardous waste" or *"HW"* means the same as defined in Iowa Code section 455B.411.

"Hazardous waste contractor" means a private company that provides management (e.g., recycling, disposal) of household hazardous waste or VSQG hazardous waste in compliance with federal regulations. "Hazardous waste contractor" does not include regional collection centers.

"Household hazardous materials" or *"HHM"* means the same as defined in Iowa Code ~~subsection~~ 455F.1(4) section 455F.1.

"Household hazardous waste" or *"HHW"* means an HHM as defined in Iowa Code section 455F.1 which has served its intended use and is designated for disposal.

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“Indirect costs” means costs that are not identifiable with a specific product, function or activity.

“Mobile unit collection and consolidation center” or *“MUCCC”* means a government agency or private agency under contract with a government agency as part of a solid waste comprehensive plan that provides HHM collection events at temporary sites. Collection events are held a minimum of 16 hours per month in each county served by the MUCCC. MUCCCs do not provide public access to a fixed facility. Materials collected are consolidated and stored for removal by a hazardous waste contractor. MUCCCs do not include RCCs that utilize a mobile collection unit along with access to a permanent facility.

“Overhead costs” means expenses not chargeable to a particular part of the work or product including, but not limited to, utilities and insurance.

“RCC mobile unit” means a truck or trailer belonging to owned and operated under the direction of a regional collection center that can be moved to different sites within a region. A mobile unit is used to perform collection events and to transport collected materials to the fixed RCC for sorting and consolidation.

“Regional collection center” or *“RCC”* means a secured facility at which collection, sorting, and packaging of household hazardous materials and hazardous materials from CESQGs are accomplished prior to transportation of these wastes to the final disposal site. RCCs have regular hours during which the public may drop off hazardous materials. An RCC may be a government agency or a private agency under contract with a government agency as part of a solid waste comprehensive plan. RCCs are referred to as temporary collection sites in Iowa Code subsection 455F.8A(1) the same as defined in Iowa Code section 455F.1.

“Satellite facility” means a secured facility at which collection and storage of household hazardous materials and hazardous materials from CESQGs are accomplished prior to transportation of these wastes to an RCC. A satellite facility has a written contract with an RCC for the removal of collected waste. A satellite facility may be operated by a government agency or a private agency under contract with a government agency as part of a solid waste comprehensive plan. A satellite facility is available for public drop off of hazardous materials either during regularly scheduled hours or by appointment the same as defined in Iowa Code section 455F.1.

“Staffing costs” means salaries and benefits related to payment of personnel.

“Very small quantity generator” or *“VSQG”* means a generator that generates less than or equal to the following amounts in a calendar month:

1. 100 kilograms (220 lbs) of non-acute hazardous waste;
2. 1 kilogram (2.2 lbs) of acute hazardous waste listed in 40 CFR 261.31 or 40 CFR 261.33(e);
3. 100 kilograms (220 lbs) of any residue or contaminated soil, water or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in 40 CFR 261.31 or 40 CFR 261.33(e).

567—211.3(455E,455F) Role of the department. The department is responsible for the administration of funds for projects financial assistance sponsored under this chapter. The department shall ensure that funds disbursed meet guidelines established by the groundwater protection Act (in Iowa Code chapter chapters 455E) and Iowa Code section 455B.484 and 455F. An applicant for an RCC establishment grant financial assistance under this chapter may submit any eligible project as defined in the application provided by the department. The department shall determine which projects, if any, will receive funding after review of all applications, subject to available funding.

567—211.4(455E,455F) Funding sources. The department will use funds appropriated by Iowa Code section sections 455E.11(2)“a”(2)(d) and 455E.11(2)“c” to achieve the purpose of this chapter. The department shall ensure that moneys appropriated meet both federal and state guidelines pertaining to the use of the moneys.

567—211.5(455E,455F) Eligible costs. An applicant for an RCC establishment grant Applicants may request monetary financial assistance for the purpose of project development and implementation that

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~~includes funds for the following expense categories. eligible expenses including, but not limited to, the following:~~

~~1. Materials and labor for construction, and the purchase cost of structures or mobile units, or both, to be used as an RCC or satellite facility, including but not limited to site excavation for the structure and modifications to control runoff.~~

~~2. A one-year education program for households and CESQGs within the RCC service area. Eligible education expenses may include but are not limited to:~~

~~• Supplies, including paper and postage.~~

~~• The purchase of books, resource materials, slide shows, video materials, and other media for education of the local population or donation to local libraries or schools.~~

~~• Fees for public service announcements.~~

~~3. Equipment relating directly to the RCC or satellite operation.~~

~~4. First year staffing costs.~~

~~5. Site and building design fees.~~

211.5(1) Materials and labor for construction and the purchase cost of structures or RCC mobile units to be used in the operation of an RCC or satellite facility, including but not limited to site excavation for the structure and modifications to control runoff.

211.5(2) Education programs for households and VSQGs within the RCC service area. Eligible education expenses may include but are not limited to:

a. Public education and awareness materials and supplies.

b. Fees for public service announcements.

211.5(3) Equipment relating directly to the RCC or satellite facility operation.

567—211.6(455E,455F) Ineligible costs. Applicants for RCC establishment grants financial assistance cannot request monetary assistance for the following costs:

1. Taxes.
2. Vehicle registration.
3. Indirect or overhead costs.
4. Legal costs.
5. Contingency funds.
6. Land acquisition.
7. Disposal of hazardous materials.
8. Office equipment.
9. Staffing costs.
10. Site and building design fees.

567—211.7(455E,455F) Criteria for the selection of an RCC establishment grant RCC and satellite facility financial assistance.

211.7(1) An applicant for an RCC establishment grant and satellite financial assistance shall submit to the department a completed application and a comment on a form provided by the department. The comment form shall be completed by the agency responsible for the submission of a solid waste comprehensive plan for the area in which the RCC or satellite facility will be established.

211.7(2) The department shall coordinate the evaluation of proposals, and applicants. Applications will be awarded financial assistance evaluated based on selection criteria contained in the application form. Prior to receiving financial assistance from the department, applicants an RCC must either obtain a regional collection center permit, amend the SDP permit of the host license. A satellite facility to include regional collection center activities, or shall provide documentation of a contractual arrangement with a permitted licensed RCC for removal of the waste to be collected.

211.7(3) Applicants shall submit a completed application on a form provided by the department and three photocopies, and shall address criteria in the order presented in the application and guidelines. An application that fails to address all of the criteria may not receive further consideration. The applicant must be in compliance with applicable federal and state statutes and regulations.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

567—211.8(455E,455F) Grant denial. An application may be denied for the following reasons, including but not limited to:

1. The applicant does not meet eligibility requirements pursuant to the provisions of this chapter.
2. The applicant does not provide sufficient information requested in the application proposal pursuant to this chapter.
3. The project goals or scope is not consistent with this chapter.
4. Funds are insufficient to award financial assistance to all qualified applicants.
5. The applicant has not met contractual obligations of previous grant awards.
6. The department received the application after the deadline stated in the application and guidelines.
7. The applicant is found to be out of compliance with applicable federal or state statutes or regulations.

567—211.9(455E,455F) RCC collection and ~~MUCCC household hazardous material disposal support funding.~~

~~211.9(1) All RCCs and MUCCCs, whether they are operated by a public agency or an eligible private agency, may receive to receive funding support, when available, from the department to offset the cost associated with proper disposal of properly manage eligible pounds of VSQG hazardous waste and household hazardous waste. To receive funding, an RCC must be in compliance with applicable federal and state statutes and regulations.~~ The source for this funding is described in Iowa Code section 455E.11(2)“a”(2)(d) and (e).

211.9(2) To be eligible to receive support and disposal-funding assistance, an RCC or MUCCC must:

- a. Have household hazardous materials waste and VSQG hazardous waste removed by a licensed hazardous waste contractor.
- b. ~~Complete~~ Correctly complete the hazardous materials collection semiannual report on a form supplied by the department.
- c. ~~Attach the hazardous waste contractor invoices depicting hazardous material types, net weight of hazardous materials, and associated management fees charged by the hazardous waste contractor.~~ following documentation:
 - (1) Hazardous waste contractor invoices depicting cost and hazardous waste types.
 - (2) The net weight calculations of household hazardous waste and VSQG hazardous waste obtained by subtracting container weight from final disposal weight, not the manifest weight.
 - (3) Documentation that all household hazardous waste and VSQG hazardous waste was disposed of by a licensed hazardous waste contractor.
 - (4) Documentation of materials shipped using final disposal receipts.

d. Submit regional collection center semiannual reports by September 4 15 for the portion of the ~~fiscal~~ current calendar year January 1 through June 30, and by March 4 15 for the portion of the ~~fiscal~~ previous calendar year July 1 through December 31. Reports submitted after the due date without prior approval by the department are not eligible for ~~reimbursement~~ funding.

~~211.9(3) The fall payments~~ Fall collection and disposal funding will be based on the regional collection center semiannual report due September 4 15 and on available funding. An RCC or MUCCC will receive a percentage of the available funding in an amount proportional to the amount of ~~HHM~~ eligible pounds the RCC or MUCCC recycled or disposed of through a hazardous waste contractor, as reported on the ~~hazardous materials regional collection center~~ semiannual report form, compared to the total amount of ~~HHM~~ eligible pounds recycled or disposed of by all RCCs and MUCCCs. ~~The fall payment shall not exceed total disposal costs for the reporting period as reported on the regional collection center semiannual report form.~~

~~The spring payments~~ Spring collection and disposal funding will be based on the total eligible pounds reported for the calendar year and on available funding. An RCC or MUCCC will receive a percentage of the available funding for the calendar year minus the amount received for the fall payment, in an amount proportional to the amount of ~~HHM~~ eligible pounds the RCC or MUCCC recycled or disposed of through a hazardous waste contractor, as reported on the ~~hazardous materials regional collection center~~

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

semiannual report form for the calendar year, compared to the total amount of ~~HHM~~ eligible pounds recycled or disposed of by all RCCs and MUCCCs. ~~The spring and fall payments combined shall not exceed an RCC's or MUCCC's total disposal costs for the calendar year as reported on the regional collection center semiannual report form.~~

These rules are intended to implement Iowa Code ~~Supplement section~~ sections 455F.8A and Iowa Code section 455F.8B.

ITEM 6. Rescind and reserve ~~567—Chapter 214.~~

[Filed 8/21/18, effective 10/17/18]

[Published 9/12/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/12/18.

ARC 3997C

LAW ENFORCEMENT ACADEMY[501]

Adopted and Filed

Rule making related to emergency care provider certification

The Law Enforcement Academy hereby amends Chapter 1, "Organization and Administration," Chapter 3, "Certification of Law Enforcement Officers," Chapter 4, "Instructor Certification Criteria for Approved Regional Law Enforcement Training Facilities," Chapter 9, "Jailer Training," and Chapter 10, "Reserve Peace Officers," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 80B.11 and 80B.11A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 80B.11 and 80B.11A.

Purpose and Summary

The emergency care provider certification process for Iowa peace officers is managed within the Iowa Law Enforcement Academy based on guidance provided by the Iowa Department of Public Health (IDPH). The Academy is amending Chapters 1, 3, 4, 9 and 10 to reflect the current process for IDPH involvement. ~~641—Chapter 139, "Iowa Law Enforcement Emergency Care Provider,"~~ is no longer relevant in the certification process and is proposed to be rescinded by the IDPH in a future rule making. The level of training required of Iowa peace officers to obtain an emergency care provider certification is not changed.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on May 23, 2018, as **ARC 3809C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Iowa Law Enforcement Academy Council on August 2, 2018.

Fiscal Impact

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

LAW ENFORCEMENT ACADEMY[501](cont'd)

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Council for a waiver of the discretionary provisions, if any, pursuant to 501—Chapter 16.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on October 17, 2018.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** definition of “Iowa law enforcement emergency care provider” in rule **501—1.1(80B)**:

“*Iowa law enforcement emergency care provider*” or “*ILEECP*” means an individual who is certified by the academy as an Iowa peace officer, who has successfully completed an emergency medical care provider curriculum approved by the academy, and who is currently certified by the academy as an emergency medical care provider.

ITEM 2. Amend paragraph **3.9(1)“b”** as follows:

b. The applicant must possess or obtain current Iowa law enforcement emergency care provider (ILEECP) ~~or more advanced certification recognized~~ or current emergency medical care provider certification issued by the Iowa department of public health and approved by the academy, and current course completion in cardiopulmonary resuscitation, AED and Foreign Body Airway Obstruction for all age groups according to national standards, with documentation furnished to the academy.

ITEM 3. Amend subrule 4.3(2) as follows:

4.3(2) *Specialist (specific requirements to instruct in specialized areas)*. Special training or experience is required to instruct in certain segments of the curriculum as listed below:

a. Firearms instructor. Successful completion of a firearms instructor school at the Iowa law enforcement academy.

b. Defensive tactics instructor. Successful completion of a defensive tactics instructor school at the Iowa law enforcement academy or other training recognized by the Iowa law enforcement academy.

c. Precision driving instructor (lead instructor).

(1) Lead instructor. Must have satisfactorily completed a recognized precision driving instructor school.

(2) Assistant instructors. Must possess an understanding of the program to be presented and, as a result of experience and informal instruction, have developed skills adequately to assist lead instructor and shall work under the immediate supervision of lead instructor at all times.

d. Physical fitness instructor. Successful completion of a physical fitness instructor school at the Iowa law enforcement academy or other training recognized by the Iowa law enforcement academy.

e. ~~Crash injury management.~~ Iowa law enforcement emergency care provider instructor. Must be certified ~~to instruct in this area~~ as an ILEECP by the Iowa law enforcement academy or maintain current emergency medical care provider certification issued by the Iowa department of public health and have completed an instructor course as approved by the academy.

LAW ENFORCEMENT ACADEMY[501](cont'd)

f. Fingerprint instructor. Must have successfully completed the basic and advanced Federal Bureau of Investigation fingerprint schools or a program approved by the Iowa law enforcement academy council.

g. Narcotics and dangerous drug instructor. Must have extensive experience and specialty training in this area.

h. ~~Accident~~ Collision investigation instructor. Must have completed a two-week ~~accident~~ collision investigation school provided or recognized by the Iowa law enforcement academy.

i. Law enforcement and minority group instructor. Must possess a four-year degree from an accredited institution in the behavioral science area and must have three years of experience in the subject area; or, in the opinion of the council, ~~meets~~ meet the qualifications set forth in 4.3(1).

j. Communications instructor. Must be certified by general services, communication division.

k. ~~Drinking driver control instructor.~~ Chemical testing instructor. Must have extensive field experience with a strong background in the Iowa Code and case law. To teach the chemical testing segment, the instructor must possess training and experience in laboratory methods relative to the subject.

l. Arson and bombing instructor. Must have attended a specialty school in police/military ~~explosive~~ explosives handling and a recognized arson school.

m. ~~Crowd control~~ management instructor. Must have attended a school recognized by the Iowa law enforcement academy in riot control and chemical agents.

n. Criminalistics instructor. Must have extensive experience and education or training in methods and procedures for scientific crime detection.

o. ~~Youth and Juvenile~~ law instructor. Must have extensive experience in dealing with youthful offenders, a strong background in Iowa juvenile law and relevant case law, and specialty training or education in the subject area.

ITEM 4. Rescind subrule 9.1(1) and adopt the following new subrule in lieu thereof:

9.1(1) Basic training. All jail administrators shall meet the following requirements within six months of appointment. Jailers shall meet the following requirements within one year of employment:

a. First aid and cardiopulmonary resuscitation.

(1) The individual shall hold a current course completion card in cardiopulmonary resuscitation, AED and Foreign Body Airway Obstruction for adults according to national standards recognized by the Iowa law enforcement academy.

(2) The individual shall hold a current course completion card in first aid according to the national standards recognized by the Iowa law enforcement academy, or shall hold one of the following:

1. Certification as an Iowa law enforcement emergency care provider (ILEECP) by the Iowa law enforcement academy.

2. Certification by the Iowa department of public health as an emergency medical responder or higher.

3. Certification of completion of a first-aid training program appropriate to jail usage which was developed by a sheriff's department. First-aid training criteria shall include, at a minimum, the following topics:

- Shock.
- Bleeding control.
- Burns.
- Soft tissue and bone/joint injuries.
- Difficulty breathing.
- Chest pain.
- Allergic reaction.
- Poisoning.
- Seizures.
- Diabetic emergencies.
- Heat and cold emergencies.

LAW ENFORCEMENT ACADEMY[501](cont'd)

- Suicide.

All instructors providing training pursuant to 9.1(1)“a”(2)“3” shall be certified pursuant to subrule 9.2(2).

4. Licensure to practice as a licensed practical nurse, registered nurse or medical practitioner in the state of Iowa.

(3) The individual shall be certified as an instructor by the American Heart Association, the American Red Cross or other national program as approved by the academy.

(4) All certification or licensure required by this rule must thereafter be maintained current according to the standards of the certifying or licensing agency.

b. Either the successful completion of a 40-hour training program approved by the academy or the successful completion of a National Sheriffs' Association correspondence course shall be applicable to jailers and administrators employed in all jails pursuant to subrule 9.2(1). Either course must be appropriately documented to reflect course content, length of session, and instructor(s). All instructors presenting classes either in the 40-hour training or continuing education program shall be certified by academy personnel utilizing certification standards adopted by the academy. It shall be the responsibility of the training program director to make certain all instructors are certified and the training program is approved.

c. All staff providing medication shall be trained in accordance with the Iowa state sheriffs' and deputies' association medication training program or other program approved by the Iowa board of pharmacy.

ITEM 5. Rescind paragraph 9.3(1)“a” and adopt the following new paragraph in lieu thereof:

a. First aid and cardiopulmonary resuscitation.

(1) The individual shall hold a current course completion card in cardiopulmonary resuscitation, AED and Foreign Body Airway Obstruction for adults according to national standards recognized by the Iowa law enforcement academy.

(2) The individual shall hold a current course completion card in first aid according to the national standards recognized by the Iowa law enforcement academy, or shall add one of the following:

1. Certification as an Iowa law enforcement emergency care provider (ILEECP) from the Iowa law enforcement academy.

2. Certification by the Iowa department of public health as an emergency medical responder or higher.

3. Certification of completion of a first-aid training program appropriate to jail usage which was developed by a sheriff's department. First-aid training criteria shall include, at a minimum, the following topics:

- Shock.
- Bleeding control.
- Burns.
- Soft tissue and bone/joint injuries.
- Difficulty breathing.
- Chest pain.
- Allergic reaction.
- Poisoning.
- Seizures.
- Diabetic emergencies.
- Heat and cold emergencies.
- Suicide.

All instructors providing training pursuant to 9.3(1)“a”(2)“3” shall be certified pursuant to subrule 9.2(2).

4. Licensure to practice as a licensed practical nurse, registered nurse or medical practitioner in the state of Iowa.

LAW ENFORCEMENT ACADEMY[501](cont'd)

(3) The individual shall be certified as an instructor by the American Heart Association, the American Red Cross or other national program as approved by the academy.

(4) All certification or licensure required by this rule must thereafter be maintained current according to the standards of the certifying or licensing agency.

ITEM 6. Amend rule 501—10.10(80D) as follows:

501—10.10(80D) CPR certification required. Reserve peace officers shall maintain ~~at a minimum valid first-aid certifications issued by the American Heart Association, the American Red Cross, or any other group recognized by the Iowa law enforcement academy and must have~~ current course completion in cardiopulmonary resuscitation, AED and Foreign Body Airway Obstruction for all age groups according to national standards, ~~with documentation furnished to~~ recognized by the Iowa law enforcement academy.

[Filed 8/16/18, effective 10/17/18]

[Published 9/12/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/12/18.

ARC 3998C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rule making related to automated traffic enforcement

The Department of Transportation hereby rescinds Chapter 144, "Automated Traffic Enforcement on the Primary Road System," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making does not implement a state or federal law but instead rescinds rules determined by the Iowa Supreme Court to be beyond the Department's rule-making authority.

Purpose and Summary

On April 27, 2018, the Iowa Supreme Court, in Case No. 17-0686, *City of Des Moines, City of Muscatine and City of Cedar Rapids v. Iowa DOT*, ruled that the Department did not have the statutory authority to adopt or enforce the rules set forth in Chapter 144. Consistent with this ruling, the Department is rescinding this chapter.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 4, 2018, as **ARC 3864C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on August 15, 2018.

TRANSPORTATION DEPARTMENT[761](cont'd)

Fiscal Impact

The Department is unable to determine the fiscal impact of rescinding this chapter. Individual cities and counties will determine whether and to what extent they maintain existing automated traffic enforcement systems and locations or add new systems or locations.

Jobs Impact

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

Waivers

A waiver provision is not included in this rule making because the Department is rescinding the chapter.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on October 17, 2018.

The following rule-making action is adopted:

Rescind and reserve **761—Chapter 144**.

[Filed 8/15/18, effective 10/17/18]

[Published 9/12/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/12/18.

ARC 3999C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rule making related to vehicle registration and certificate of title

The Department of Transportation hereby amends Chapter 400, "Vehicle Registration and Certificate of Title," and Chapter 405, "Salvage," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 307.12, 321.20 and 326.33.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 326 and sections 17A.3, 321.1(75), 321.13, 321.20, 321.31, 321.46A, 321.52, 321.126 and 423.26.

TRANSPORTATION DEPARTMENT[761](cont'd)

Purpose and Summary

These amendments form a comprehensive update of the Department's rules affecting or involving vehicle registration and certificate of title to better implement and align with existing legal authority and Department practice and to eliminate outdated or irrelevant requirements or options.

The term "proportional" is replaced with "apportioned" throughout Chapter 400 to conform to the language used within Iowa Code chapters 321 and 326 to describe registration fees under the International Registration Plan.

The electronic registration and titling (ERT) process is updated to remove the need for dealers to obtain a notarized power of attorney and instead to require the vehicle purchaser to provide the dealer with written authorization for each ERT transaction. The amendments also reduce the record retention period for original documents from three years to six months. Requiring written authorization from the vehicle purchaser rather than a power of attorney and reducing the record retention period from three years to six months ensure the integrity of the ERT process without putting an undue burden on the participants in that process.

An Iowa Code change regarding salvage certificate registration fees for a motor vehicle that is expected to be transferred to an insurer as a result of a settlement with the owner(s) is incorporated into the rules. The amendments clarify that, as provided under Iowa Code section 321.52(4) as amended by 2017 Iowa Acts, chapter 31, section 2, an insurer obtaining a salvage certificate of title is not required to submit the last-issued certificate of title when applying for an Iowa certificate of title and that the title shall be issued free and clear of all liens and claims of ownership, including any outstanding registration fees or registration penalties.

The process for when a vehicle owner's legal name has changed is clarified to provide that the vehicle owner is not required to obtain a corrected title with the owner's new name but must obtain a replacement registration card that reflects the owner's new name. Iowa Code section 321.20(1) requires both the title and the registration to reflect the owner's correct legal name at initial application, but the Iowa Code does not require the title to be reissued if the owner's name is subsequently changed. Rather, the Iowa Code requires the Department to properly maintain the record of ownership and to change the record as necessary to keep it accurate. Iowa Code section 321.31(1) requires the Department to maintain a record system that includes the name of the owner, to update information required to be kept in the record system within 48 hours of receipt of the information, and to include a record of the certificate of title that includes any information deemed necessary and makes the Department record system the permanent record of ownership for the vehicle. Iowa Code section 321.31 provides that the record system shall constitute the permanent record of ownership of each vehicle titled under the laws of this state, and this, in essence, makes the Department the abstractor of the vehicle record. If a person changes the person's name, the person is required to report the name change to the Department, and the Department will change the person's record to reflect the name change. Ultimately, the Department's record, with the person's new name, becomes the record of ownership without a change of title, and the person's registration receipt for the vehicle is updated to match the Department's record.

The amendments also eliminate outdated requirements to utilize paper forms when authorizing a record change and when submitting paper vehicle identification number forms for purposes of issuing a corrected title and eliminate the requirement for the county treasurer to notify the Department by regular mail or email of a title conversion and cancellation for a manufactured or mobile home converted to or from real property.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 18, 2018, as **ARC 3890C**. No public comments were received. No changes from the Notice have been made.

TRANSPORTATION DEPARTMENT[761](cont'd)

Adoption of Rule Making

This rule making was adopted by the Department on August 22, 2018.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on October 17, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend rule **761—400.1(321)**, definition of “Manufacturer’s certificate of origin,” as follows:

“*Manufacturer’s certificate of origin*” means a certification signed by the manufacturer, distributor or importer that the vehicle described has been transferred to the person or dealer named and that the transfer is the first transfer of the vehicle in ordinary trade and commerce.

1. and 2. No change.

3. For 1992 and subsequent model year vehicles, the form used for manufacturers’ certificates of origin shall be the universal form adopted in 1990 by the American Association of Motor Vehicle Administrators (AAMVA). This requirement does not apply to trailer-type vehicles. A copy of this universal form ~~is on file in~~ may be obtained from the office of vehicle and motor carrier services at the address in subrule 400.6(1).

ITEM 2. Amend subrule 400.3(13) as follows:

400.3(13) Credits. See rule 761—400.60(321) for:

Credit for unexpired registration fee.

Credit for transfer to spouse, parent or child.

Credit from/to ~~proportional~~ apportioned registration.

Assignment of credit and registration plates from lessor to lessee.

ITEM 3. Amend subrule 400.3(14) as follows:

400.3(14) Leased vehicle. As required by Iowa Code section ~~423.7A~~ 423.26, the lessor shall list the lease price of the vehicle on the application form.

ITEM 4. Amend paragraph **400.3(16)“j”** as follows:

j. An application submitted electronically must meet all legal requirements for the transaction in question, and no requirement shall be excused or waived as a result of submitting the transaction electronically. However, wherever a signature is required, the signature may be an electronic signature, as determined by the department and according to methods approved by the department. Wherever

TRANSPORTATION DEPARTMENT[761](cont'd)

an electronic solution approved by the department requires the submission of scanned documents, the scanned documents shall be of a quality and resolution determined by the department, which shall at a minimum meet any applicable state or federal standard or requirement, and shall completely capture and represent the original document. The department and any county treasurer processing an application retain the right under Iowa Code section 321.13 to determine the genuineness, regularity, and legality of the application and any scanned document submitted as part of the application and may withhold approval of the application and require presentation of the original document whenever the scanned document is of insufficient quality, content, or appearance to determine the same. An end user that submits a scan of an original document as part of an electronic application shall retain the original document for a period of ~~three years~~ six months. An end user shall make all such original documents available for inspection by the department at the department's request. An end user that is a business entity shall retain the documents at the end user's principal place of business in Iowa. Anything in this paragraph notwithstanding, lessors required to retain a damage disclosure statement under Iowa Code section 321.69(4), and authorized vehicle recyclers licensed under Iowa Code chapter 321H and motor vehicle dealers licensed under Iowa Code chapter 322 required to retain damage disclosure statements under Iowa Code section 321.69(6) shall retain the original document for a period of five years from the date of the statement, as required therein.

ITEM 5. Amend paragraph **400.3(16)“k”** as follows:

k. An end user that is a motor vehicle dealer licensed by the department under Iowa Code chapter 322 or 322C and that electronically submits an application on behalf of the person to whom the dealer is transferring the vehicle shall disclose to the person that the application will be submitted electronically and shall obtain the person's ~~power of attorney~~ written authorization to submit the application on the person's behalf. The ~~power of attorney~~ written authorization shall be retained at the motor vehicle dealer's principal place of business for a period of ~~three years~~ six months from the date of application and shall be available for inspection by the department at the department's request. The motor vehicle dealer shall also review with and disclose to the person all details of the application, before submitting the application, and shall provide a complete, true, and accurate copy of the application to the person immediately after submitting the application. The ~~power of attorney~~ written authorization shall be submitted electronically as a scanned document with the electronic application.

ITEM 6. Amend paragraph **400.3(16)“l”** as follows:

l. An authorized ERT service provider shall retain all data, information, records, and electronic records associated with an electronic application or transaction submitted or transacted through the ERT service provider for a period of at least ~~three years~~ six months, or longer as required by applicable state or federal law or regulation, and shall make all such data, information, and records available to the department at the department's request. This includes but is not limited to the identity of the end user that initiated the electronic application or transaction. Identity information for end users shall be maintained at the entity and individual level, meaning that the ERT service provider must implement and maintain secure profile management that is capable of authenticating and verifying the identity of any entity that initiated the application or transaction and the individual officer, employee, or agent within the entity that was authorized by the entity to initiate the application or transaction.

ITEM 7. Amend rule **761—400.3(321)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.1, 321.8, 321.20, 321.23 to 321.26, 321.31, 321.34, 321.46, 321.105A, 321.109, 321.122, ~~and~~ 322.19A and 423.26.

ITEM 8. Amend subrule 400.4(2) as follows:

400.4(2) *Used vehicle registered or titled in this state.* The last issued certificate of title, properly assigned to the applicant, shall be submitted, unless the applicant is an insurer applying for a salvage certificate of title under Iowa Code section 321.52(4). An uncanceled security interest noted on the face of the certificate of title shall be noted on the face of the certificate of title issued to the applicant, in addition to any security interest acknowledged by the applicant. If the vehicle is not subject to titling

TRANSPORTATION DEPARTMENT[761](cont'd)

provisions, the last issued registration receipt or bill of sale, properly assigned to the applicant, shall be submitted.

ITEM 9. Amend subrule 400.4(3), introductory paragraph, as follows:

400.4(3) *Used vehicle from a foreign jurisdiction.* If the vehicle was subject to the issuance of a certificate of title in the foreign jurisdiction, the certificate of title issued by the foreign jurisdiction to the applicant or properly assigned to the applicant shall be submitted, unless the applicant is an insurer applying for a salvage certificate of title under Iowa Code section 321.52(4).

ITEM 10. Amend subrule 400.4(4) as follows:

400.4(4) *Used vehicle acquired by a resident of this state from a government agency.* If the vehicle was acquired from an agency of the federal government, the applicant shall surrender the government bill of sale, General Services Administration Form 97 or 97A, or Internal Revenue Service Form 2435, properly assigned to the applicant. If the vehicle was acquired from the state of Iowa or a subdivision of government, the applicant shall surrender the Iowa certificate of title issued in the name of the agency, properly assigned to the applicant.

ITEM 11. Amend rule 761—400.5(321) as follows:

761—400.5(321) Where to apply for registration or certificate of title.

400.5(1) No change.

400.5(2) Application shall be made to the department's office of vehicle and motor carrier services for the following:

a. to *g.* No change.

400.5(3) Application for a certificate of title for a vehicle subject to ~~proportional~~ apportioned registration under Iowa Code chapter 326 may be made to either the county treasurer or to the department's office of vehicle and motor carrier services. ~~The office of motor carrier services may be contacted at the addresses listed in subrule 400.6(2) or by telephone at (515)237-3264.~~

400.5(4) Application for ~~proportional~~ apportioned registration shall be made to the department's office of vehicle and motor carrier services. See 761—Chapter 500.

This rule is intended to implement Iowa Code sections 321.18 to 321.23, 321.46(2), and 321.170.

ITEM 12. Amend rule 761—400.6(17A) as follows:

761—400.6(17A) Addresses, information and forms. Assistance under this chapter is available as follows:

400.6(1) Information and forms for vehicle registration, certificate of title, or other procedures covered under Iowa Code sections 321.18 to 321.173 may be obtained from the county treasurer or by mail from: the

~~400.6(1)~~ Office of Vehicle and Motor Carrier Services, Iowa Department of Transportation, P.O. Box 9278, Des Moines, Iowa 50306-9278; in person at Iowa Department of Transportation, 6310 SE Convenience Blvd., Ankeny, Iowa 50021; by telephone at (515)237-3264; or on the department's website at www.iowadot.gov.

~~400.6(2)~~ Office of Motor Carrier Services, Iowa Department of Transportation, P.O. Box 10382, Des Moines, Iowa 50306-0382. Information for investigations under this chapter may be obtained from the Bureau of Investigation and Identity Protection, Iowa Department of Transportation, 6310 SE Convenience Blvd., Ankeny, Iowa 50021; by telephone at (515)237-3050; or on the department's website at www.iowadot.gov.

~~400.6(3)~~ The Internet at the following address: <http://www.iowadot.gov/mvd>.

This rule is intended to implement Iowa Code section 17A.3.

ITEM 13. Amend subrule 400.7(11) as follows:

400.7(11) Full legal name of owner.

a. When the name of an owner changes from that which is printed on the title or registration issued to the owner, the owner shall submit to the county treasurer ~~on a form prescribed by the department an~~

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~~application for a certificate of title or registration for a vehicle. The application must be accompanied by one of the following documents:~~

(1) to (3) No change.

~~b. Paragraph “a” of this~~ This subrule does not apply to owners that are firms, associations, corporations, or trusts.

~~c. When the name of an owner changes from that which is printed on the registration card, the owner shall apply for a replacement registration card.~~

ITEM 14. Amend subrule 400.13(1) as follows:

400.13(1) Procedures. This subrule describes the procedures to be followed to obtain a “bonded” certificate of title. The procedures described are in addition to the regular procedures for titling and registering a vehicle.

a. The applicant shall submit a bond application to the office of vehicle and motor carrier services on a form prescribed by the department. The application shall be accompanied by evidence of ownership of the vehicle.

b. and c. No change.

d. After the cash deposit or surety bond has been deposited, a motor vehicle investigator of the department may examine the vehicle to verify the information submitted on the application is correct. The owner of the vehicle may drive or tow the vehicle to and from the examination location ~~by~~ after completing an affidavit to drive on a form provided by the department. The form shall state that the vehicle is reasonably safe for operation, and the form must be signed by the owner. After verifying the information, the investigator shall ~~give to the applicant a document authorizing~~ authorize the county treasurer to issue a title for and register the vehicle. Should the vehicle not meet the equipment requirements of Iowa Code chapter 321, the investigator shall authorize the county treasurer to issue a title and registration but instruct the county treasurer to immediately suspend the registration until such time as the vehicle meets these equipment requirements. If applicable, the investigator shall also affix an assigned vehicle identification number to the vehicle ~~and give to the applicant an assigned vehicle identification number (VIN) form.~~

~~e. The applicant shall then submit the authorization document and, if applicable, the VIN form to the county treasurer and make application for a certificate of title and registration.~~

ITEM 15. Amend paragraph **400.16(2)“c”** as follows:

c. If the investigator determines that the vehicle complies with 761—Chapter 450, that the integral parts and components have been identified as to ownership, and that the application has been completed properly:

(1) The investigator shall approve the application, affix to the vehicle an assigned vehicle identification number, and return the application and ownership documents to the applicant. The investigator shall ~~also give to the applicant an assigned vehicle identification number (VIN) form that the applicant shall submit with the application to the county treasurer~~ authorize the county treasurer to issue a title and registration for the vehicle.

(2) No change.

(3) The applicant shall then submit the ~~approved application,~~ ownership document for the vehicle, ~~and VIN form~~ to the county treasurer and continue with the regular title and registration process.

ITEM 16. Amend rule ~~761—400.28(321)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~subsection 321.1(76)~~ sections 321.1(75) and ~~section 321.121.~~

ITEM 17. Amend rule ~~761—400.39(321)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.23, 321.111 and 321.124 ~~and 321.111.~~

ITEM 18. Amend subrule 400.40(1) as follows:

400.40(1) Conversion to real property. When a manufactured or mobile home is converted to real property under Iowa Code section 435.26, the assessor shall collect its vehicle certificate of title. The assessor shall note the conversion on the face of the certificate of title above the assessor’s signature, date

TRANSPORTATION DEPARTMENT[761](cont'd)

the notation and deliver the title to the county treasurer. The county treasurer shall note the conversion on the vehicle record ~~in the county treasurer's office, cancel the record, keep the certificate of title and notify the department of the cancellation. The department shall cancel its record for that manufactured or mobile home~~ and then cancel and retain the certificate of title.

ITEM 19. Amend subrule 400.43(2) as follows:

400.43(2) The owner of a motor vehicle which is placed in storage when the owner enters the military service of the United States shall comply with Iowa Code ~~subsection 321.126(3)~~ section 321.126, and subrule 400.43(1) does not apply.

ITEM 20. Amend rule ~~761—400.45(321)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 252J.1, 252J.8, 252J.9, 261.126, 321.101, 321.101A and 321.127, 321.101 and 321.101A.

ITEM 21. Amend rule ~~761—400.47(321)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~section 321.466, subsections (5) and (6)~~ sections 321.466(4) and 321.466(5).

ITEM 22. Amend rule ~~761—400.50(321,326)~~ as follows:

~~761—400.50(321,326)~~ Refund of registration fees.

400.50(1) *Vehicles registered by county treasurer.*

a. and b. No change.

c. Registration plates shall be submitted with the claim if the vehicle is placed in storage or registered for ~~proportional~~ apportioned registration, if the owner of the vehicle moves out of state, or if the plates have not been assigned to a replacement vehicle. If one or both plates have been lost or stolen, the claimant shall certify this fact in writing.

d. No change.

e. If the claim for refund is for excess credit or no replacement vehicle:

(1) No change.

(2) The claim for refund shall be approved or denied by the office of vehicle and motor carrier services.

f. All other claims for refund shall be forwarded to the office of vehicle and motor carrier services for processing.

400.50(2) *Vehicles registered by department.* Forms and instructions for claiming a refund on apportioned registration fees under Iowa Code section 326.15 may be obtained from the office of vehicle and motor carrier services at the address in subrule ~~400.6(2)~~ 400.6(1). The claim for refund shall be filed at the same address.

~~**400.50(3)** *Disapproved claim.* Rescinded IAB 11/23/05, effective 12/28/05.~~

This rule is intended to implement Iowa Code sections 25.1, 321.126 to 321.128 and 326.15.

ITEM 23. Amend subrules 400.51(2) and 400.51(3) as follows:

400.51(2) *Procedures.*

a. *Request.* Whenever an assigned identification number is required under subrule 400.51(1) and the request does not apply to a specially constructed, reconstructed, street rod or replica motor vehicle, the owner of the vehicle, component part, fence-line feeder, grain cart or tank wagon, or the person holding lawful custody, shall contact the department's ~~office of motor vehicle enforcement~~ bureau of investigation and identity protection at the address in subrule ~~400.6(2)~~ and request the assignment of a number.

b. No change.

c. *Assigned vehicle identification number.*

(1) The investigator upon approval of the request shall affix to the vehicle an assigned vehicle identification number and ~~give to the owner an assigned vehicle identification number (VIN) form~~ authorize the county treasurer to issue a title and registration for the vehicle.

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(2) The owner shall submit ~~the VIN form~~, the certificate of title, and the registration receipt issued for the vehicle to the county treasurer. If the certificate of title is in the possession of a secured party, the county treasurer shall notify the secured party to return the certificate of title to the county treasurer for the purpose of issuing a corrected title. Upon receipt of the notification, the secured party shall submit the certificate of title within ten days. The county treasurer, upon receipt of the certificate of title, and the registration receipt ~~and the VIN form~~, shall issue a corrected title and registration receipt listing as the vehicle identification number the assigned vehicle identification number.

d. and e. No change.

400.51(3) Fees. A certificate of title fee and a fee for a notation of a security interest, if applicable, shall be collected by the county treasurer upon issuance of a corrected certificate of title. A corrected certificate of title shall not be required for a name change.

ITEM 24. Amend rule ~~761—400.53(321)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.34, 321.40, 321.41, 321.121 ~~as amended by 2011 Iowa Acts, Senate File 312, section 3,~~ and 321.166.

ITEM 25. Amend rule 761—400.56(321) as follows:

761—400.56(321) Hearings. The department shall send notice by certified mail to a person whose certificate of title, vehicle registration, license, or permit is to be revoked, suspended, canceled, or denied. The notice shall be mailed to the person's mailing address as shown on departmental records and shall become effective 20 days from the date mailed. A person who is aggrieved by a decision of the department and who is entitled to a hearing may contest the decision in accordance with 761—Chapter 13. The request shall be submitted in writing to the director of the office of vehicle and motor carrier services at the address in subrule 400.6(1). The request for a contested case shall be deemed timely submitted if it is delivered or postmarked on or before the effective date specified in the notice of revocation, suspension, cancellation, or denial.

This rule is intended to implement Iowa Code sections 17A.10 to 17A.19, 321.101 and 321.102.

ITEM 26. Amend subrule 400.60(3) as follows:

400.60(3) Credit from/to ~~proportional~~ apportioned registration.

a. Pursuant to Iowa Code section 321.46A, an owner may claim credit toward the registration fees due when changing a vehicle's registration from ~~proportional~~ apportioned registration under Iowa Code chapter 326 to registration under Iowa Code chapter 321. The owner shall surrender proof of ~~proportional~~ apportioned registration to the county treasurer. Credit shall be allowed for the unexpired complete calendar months remaining in the registration year from the date the application is filed with the county treasurer.

b. Pursuant to Iowa Code sections 321.126 and 321.127, the owner or lessee of a motor vehicle may claim credit for the ~~proportional~~ apportioned registration fees due when changing the vehicle's registration from registration by the county treasurer to ~~proportional~~ apportioned registration. Application for ~~proportional~~ apportioned registration shall be submitted to the department's office of vehicle and motor carrier services; see 761—Chapter 500.

ITEM 27. Adopt the following new paragraph **405.3(4)“c”**:

c. Notwithstanding any provision of this chapter to the contrary, an Iowa salvage title obtained by an insurer pursuant to the provisions under Iowa Code section 321.52(4) shall be issued free and clear of all liens and claims of ownership, including any outstanding registration fees or registration penalties.

[Filed 8/22/18, effective 10/17/18]

[Published 9/12/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/12/18.

ARC 4000C**TRANSPORTATION DEPARTMENT[761]****Adopted and Filed****Rule making related to driver's licenses**

The Department of Transportation hereby amends Chapter 605, "License Issuance," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 307.12 and 321.196.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 321.182, 321.189 and 321.196.

Purpose and Summary

This rule making updates Chapter 605 to incorporate amendments that align with existing legal authority and Department practice and to eliminate outdated or irrelevant requirements or options and accommodate modern electronic procedures.

The amendments update the physical description related to eye color to align with eye color selections that already exist in the electronic license issuance system and strike outdated language related to the fee for a replacement license issued when a person no longer needs a license marked "under 18" or "under 21." Previously, Iowa Code section 321.189(6) set the replacement fee for this type of license at \$1; however, the statute has since been amended to set the replacement fee at \$10.

The amendments simplify the address change process to clarify that an address change may be completed online at the Department's website or at a driver's license kiosk and to no longer require that a person renewing a driver's license produce two forms of proof to notify the Department of a residential address change. The amendments also allow the renewal of a person's driver's license within 180 days prior to the expiration date of the license, which provides more convenience and flexibility to the renewal process.

Finally, the amendments expand the list of who can take advantage of the online license renewal option by allowing a person with a "J" restriction that corresponds directly to a "7" (minor's school license), "Y" (intermediate license) or "I" (ignition interlock required) restriction on the back of the person's driver's license to be able to renew the license online because these combinations of restrictions do not affect the person's eligibility to renew the license online.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 4, 2018, as **ARC 3865C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on August 15, 2018.

Fiscal Impact

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

Jobs Impact

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

TRANSPORTATION DEPARTMENT[761](cont'd)

Waivers

Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on October 17, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph **605.2(3)“a”** as follows:

a. The licensee's eye color using these abbreviations: Blk-black, Blu-blue, Bro-brown, Dic-dichromatic, Gry-gray, Grn-green, Haz-hazel, ~~and Pnk-pink and Unk-unknown.~~

ITEM 2. Amend paragraph **605.2(6)“b”** as follows:

b. ~~Beginning January 15, 2013, a~~ A driver's license that is not issued as a REAL ID license as defined in 761—601.7(321) may be marked as required by 6 CFR 37.71 and any subsequent guidance issued by the U.S. Department of Homeland Security.

ITEM 3. Amend rule **761—605.4(321)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.180 ~~as amended by 2015 Iowa Acts, House File 635, section 50,~~ and 321.189.

ITEM 4. Amend rule **761—605.5(321)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code chapter 321A and sections 321.178, 321.180 ~~as amended by 2015 Iowa Acts, House File 635, section 50,~~ 321.180A, 321.180B, 321.188 ~~as amended by 2015 Iowa Acts, House File 635, section 53,~~ 321.189, 321.193, 321.194, 321.215, 321J.4, and 321J.20.

ITEM 5. Amend subrule 605.11(3) as follows:

605.11(3) Fee. The fee to replace a license is \$10. ~~Anything in this rule, notwithstanding the fee for replacement of a license under paragraphs 605.11(2)“f” and 605.11(2)“g,” shall be as set forth in Iowa Code subsection 321.189(6).~~

ITEM 6. Amend subrule 605.12(1) as follows:

605.12(1) A licensee shall notify the department of a change in the licensee's mailing address within 30 days of the change. Notice shall be given by:

a. Submitting the address change in writing to ~~the office of driver services,~~ Driver and Identification Services, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204; or

b. Completing the address change on the department's website at www.iowadot.gov or at a driver's license kiosk; or

~~*b-c.* Appearing in person to change the mailing address at any driver's license examination station service center.~~

ITEM 7. Amend subrule 605.15(2), introductory paragraph, as follows:

605.15(2) Procedure. The licensee shall apply for an extension by submitting Form 430027 to the department. The form may be obtained from and submitted to a driver's license ~~examination station~~ service center. The licensee may also apply by letter to the address in ~~761—600.2(17A).~~ paragraph 605.12(1)“a.”

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ITEM 8. Amend subrule 605.16(2) as follows:

605.16(2) Request for retention of record. A person with a military extension may request that the department retain the record of license issuance for the duration of the extension or reenter the record if it has been removed from department records. The request may be made by letter or by using Form 430081. The letter or Form 430081 shall be signed by the person's commanding officer to verify the military service and shall be submitted to the department at the address in ~~761—600.2(17A)~~. paragraph 605.12(1)“a.”

ITEM 9. Amend rule 761—605.25(321) as follows:

761—605.25(321) License renewal.

605.25(1) No change.

605.25(2) A valid license may be renewed ~~30~~ within 180 days before the expiration date. If this is impractical, the department for good cause may renew a license earlier.

605.25(3) No change.

605.25(4) If the licensee's current residential address, name, date of birth, or sex designation has changed since the previous license was issued, the licensee shall comply with the following:

a. Current residential address. The licensee shall ~~comply with the requirements of 761—subrule 601.5(3) to establish a change of~~ notify the department to establish the current residential address.

b. to d. No change.

605.25(5) and 605.25(6) No change.

605.25(7) The department may determine means or methods for electronic renewal of a driver's license.

a. No change.

b. Notwithstanding any other provision of this subrule to the contrary, the department may accept an electronic renewal application if the license contains a single “J” restriction accompanied by a “7,” “I” or “Y” restriction.

~~*b. c.*~~ *c.* The department reserves the right to deny electronic renewal and to require the applicant to personally apply for renewal at a driver's license ~~examination station~~ service center if it appears to the department that the applicant may have a physical or mental condition that may impair the applicant's ability to safely operate a motor vehicle, even if the applicant otherwise meets the criteria in 605.25(7)“a.”

~~*e. d.*~~ *d.* An applicant who has not previously been issued a driver's license that is compliant with the REAL ID Act of 2005, 49 U.S.C. Section 30301 note, as further defined in 6 CFR Part 37 (a REAL ID license) may not request a REAL ID driver's license by electronic renewal.

This rule is intended to implement Iowa Code sections 321.186 and 321.196 ~~as amended by 2013 Iowa Acts, House File 355, section 1,~~ the REAL ID Act of 2005 (49 U.S.C. Section 30301 note), and 6 CFR Part 37.

[Filed 8/15/18, effective 10/17/18]

[Published 9/12/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/12/18.

ARC 4001C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rule making related to the statewide sobriety and drug monitoring program and operating while intoxicated revocations

The Department of Transportation hereby amends Chapter 620, “OWI and Implied Consent,” Iowa Administrative Code.

TRANSPORTATION DEPARTMENT[761](cont'd)

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 307.12 and 321J.20.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 901D and sections 321.201 and 321J.20.

Purpose and Summary

The Department is updating Chapter 620 to incorporate requirements for a new statewide sobriety and drug monitoring program (24/7 program) established by 2017 Iowa Acts, chapter 76. Because of this legislation, the Department is amending its rules to align with the legislation in anticipation of the implementation of the program in 2018.

The Department of Public Safety (DPS) is charged with creating the 24/7 program in Iowa under Iowa Code chapter 901D as enacted by 2017 Iowa Acts, chapter 76. The program requires participants to complete daily alcohol or drug testing in participating jurisdictions according to rules governed by DPS. The Department is also required to adhere to the program requirements as they relate to the issuance of temporary restricted licenses (TRLs) and regular licenses to an OWI offender who committed an eligible OWI offense in a participating jurisdiction. Eligible OWI offenses are defined in Iowa Code section 901D.2(4) and include a first offense OWI in which the person's blood alcohol content exceeds .15, a first offense OWI in connection with an accident, a first offense OWI test refusal or any second or subsequent OWI offense. Participating jurisdictions must be approved by DPS and may be counties or other governmental entities that choose to participate in the program. There are not currently any participating jurisdictions as DPS is still finalizing an agreement for the development of web-based software to support this program; however, Woodbury County has indicated an interest in participating in a pilot of the 24/7 program in 2018.

As specifically related to the Department, the legislation amended Iowa Code section 321J.20 to allow a TRL to be issued for the purpose of traveling to and from a person's home to a 24/7 testing location. Also, Iowa Code section 321J.20(10) was newly created and requires a person to be a participant in and in compliance with the 24/7 program if the person committed an eligible offense in a participating jurisdiction, unless participation has been excused by court order, whenever the Department requires the installation of an ignition interlock device (IID) as a condition of the person's driver's license or driving privilege. The person must remain in compliance with the program for as long as the person is required to have the IID, unless otherwise provided by Iowa Code chapter 901D or section 321J.20.

The amendments:

- Amend the rule related to issuance of a TRL as follows:
 - Provide that a TRL issued for any purpose may include permission for the licensee to participate in the 24/7 program if required under the law and provide that the licensee must notify the Department which jurisdiction the licensee is reporting to in compliance with the program.
 - Eliminate an outdated requirement for a person to appear before a driver's license examiner to be issued a TRL. This change aligns with Department practice of allowing any properly trained driver's license issuance employee, rather than a specific classification of employee, to assist the person.
 - Strike subrule 620.3(6), which encompasses requirements for TRLs issued to repeat offenders, because the subrule is no longer necessary. The subrule was initially adopted in 2009 to comply with federal law related to consequences for repeat OWI offenders who previously were not allowed to obtain a TRL except strictly for work purposes in the first year of the revocation period. In the intervening years, the federal requirements regarding repeat OWI offenders and TRL restrictions were changed, and this subrule no longer reflects the requirements in federal law nor the Department's current practice. Therefore, the subrule is being removed to avoid the implication that a repeat offender cannot use a TRL to participate in a 24/7 program, which is clearly anticipated as a permissible use of a TRL under 23 U.S.C. §164(5)(A)(iii).

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- Amend the rule related to reinstatement of a person's driver's license after a revocation has ended as follows:
 - Eliminate an outdated requirement for a person to appear before a driver's license examiner to reinstate the person's driver's license. This change aligns with Department practice of allowing any properly trained driver's license issuance employee, rather than a specific classification of employee, to assist the person.
 - Strike an outdated requirement for a person to provide proof of deinstallation of an IID to reinstate the person's driver's license, unless the IID is still required under Iowa Code section 321J.17(3). The Department's existing practice does not require the person to provide proof of deinstallation of the IID as that requirement was previously removed from Iowa Code section 321J.20. There is no valid safety reason to require proof of deinstallation of an IID, and a person may choose to continue to drive with an IID installed.
 - Provide that a person's participation in and compliance with the 24/7 program may be a condition of license reinstatement in accordance with Iowa Code section 321J.20(10), which requires the Department to ensure a person who is required to install an IID as a condition of the person's license or driving privilege to also be a participant in and in compliance with the 24/7 program if the person committed an eligible offense in a participating jurisdiction, unless participation has been excused by court order.
- Amend the rules related to substance abuse evaluation and treatment and the drinking drivers course to reflect the current practice of providers reporting completion to the Department electronically rather than with a paper form. The amendments also clarify that providers of the drinking drivers course are those listed under Iowa Code section 321J.22(2)"a," since community colleges are not the only permitted providers of the drinking drivers course.
- Add a new rule to incorporate the Department's responsibilities relating to the 24/7 program as follows:
 - Outline when participation in the 24/7 program will be a condition of a person's license. The person must have committed an eligible offense as defined in Iowa Code section 901D.2(4) in a participating jurisdiction. An eligible first offense means the person has no previous revocation under Iowa Code chapter 321J, and an eligible second or subsequent offense means the person has had a previous revocation under Iowa Code chapter 321J. Participation will not be required if the person obtains a court order excusing the person's participation in the program. In conformance with Iowa Code chapter 901D, the person must also otherwise be eligible for a TRL or a license in order to be required to participate in the 24/7 program, meaning the person must comply with the prerequisites for obtaining a TRL or a license, such as paying outstanding civil penalties, filing SR-22 insurance, passing any required examination and otherwise being physically and mentally capable of operating a motor vehicle safely. The person must also not be under another sanction that would prevent the person from being able to obtain a TRL or license.
 - Explain that the duration of participation in the 24/7 program, unless otherwise provided in Iowa Code chapter 901D or Iowa Code section 321J.20, will last as long as the person with an eligible offense in a participating jurisdiction is required to install and maintain an IID in the person's vehicle. This requirement is consistent with the requirement in Iowa Code section 321J.20(10).
 - Clarify that if the Department receives a court order excusing the person's participation in the 24/7 program, the Department will not require participation as a condition of the TRL or license.
 - Provide that if the Department receives notification that a participant in the 24/7 program never completed enrollment in the program with the participating jurisdiction, the Department will cancel the license because the person is not entitled to the license if the person does not comply with a condition of the license. Iowa Code section 321.201 authorizes the Department to cancel the license when the Department determines the person was not entitled to issuance of the license.
 - Outline what will happen if the Department receives notification of the person's noncompliance with the 24/7 program. Upon receipt of notification of noncompliance pursuant to Iowa Code section 901D.9, the Department will revoke the person's license following existing notice and

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hearing provisions associated with revoking a person's license. This aligns with the following Iowa Code requirements:

◇ Iowa Code section 321.193 authorizes the Department to impose restrictions on the license and revoke the license upon receiving satisfactory proof that any of the restrictions on the license were violated.

◇ Iowa Code section 901D.9 states that the court may notify the Department of the participant's noncompliance and direct the Department to withdraw the TRL issued to the participant.

◇ Iowa Code section 321J.20(3) requires the Department to revoke the participant's TRL if the person operates a motor vehicle while not in compliance with the 24/7 program.

◇ Iowa Code section 321J.20(10) requires compliance with the 24/7 program as a condition of the person's license or driving privilege.

● Amend the chapter's implementation sentence to add references to Iowa Code section 321.193, which authorizes the Department to revoke a license when the licensee violates a restriction of the license; Iowa Code section 321.201, which authorizes the Department to cancel a license when the Department determines the person is not entitled to the license; and Iowa Code chapter 901D, which relates to the sobriety and drug monitoring program.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 18, 2018, as **ARC 3889C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on August 22, 2018.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on October 17, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend rule 761—620.2(321J) as follows:

761—620.2(321J) Information and location. Applications, forms, information, assistance, and answers to questions relating to this chapter are available by mail from ~~the Office of Driver~~ and

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Identification Services, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at (800)532-1121 (515)244-8725; or by facsimile at ~~(515)237-3071~~ (515)239-1837.

ITEM 2. Amend rule 761—620.3(321J) as follows:

761—620.3(321J) Issuance of temporary restricted license.

620.3(1) Eligibility and application.

a. No change.

b. To apply for a temporary restricted license, an applicant shall, at any time before or during the revocation period, submit application Form 430100 to ~~the office of driver and identification services~~ at the address in 761—620.2(321J). The application form should be furnished by the arresting officer. It may also be obtained upon oral or written request to ~~the office of driver and identification services~~ or by submitting Form 432018 to ~~driver and identification services~~ with the appropriate box checked.

c. No change.

d. A temporary restricted license issued for any purpose may include permission for the licensee to participate in the sobriety and drug monitoring program established pursuant to Iowa Code chapter 901D. For purposes of this chapter, a sobriety and drug monitoring program means the sobriety and drug monitoring program established pursuant to Iowa Code chapter 901D. If the licensee is required to participate in and comply with the sobriety and drug monitoring program as a condition of the license, the licensee shall notify the department of the jurisdiction to which the licensee is reporting in compliance with the program.

620.3(2) and 620.3(3) No change.

620.3(4) Issuance and restrictions.

a. When the application is approved and all requirements are met, the applicant shall be notified by the department to appear before a driver's license examiner. The applicant shall pass the appropriate examination for the type of vehicle to be operated under the temporary restricted license. An Iowa resident shall also pay the reinstatement and license fees. The department shall not issue the temporary restricted license until the application is approved, all requirements are met, the applicable reinstatement and license fees have been paid, and the applicant has passed the appropriate examination for the type of vehicle to be operated under the temporary restricted license.

b. No change.

620.3(5) Denial. A person who has been denied a temporary restricted license or who contests the restrictions imposed by the department may request an informal settlement conference by submitting a written request to the director of ~~the office of driver and identification services~~ at the address given in 761—620.2(321J). Following an unsuccessful informal settlement or instead of that procedure, the person may request a contested case hearing in accordance with rule 761—620.4(321J).

620.3(6) Issuance of temporary restricted license to repeat offender whose driving privilege is revoked under Iowa Code section 321J.4(2).

a. ~~It is the opinion of the department that the amendment to Iowa Code section 321J.4(2) by 2009 Iowa Acts, Senate File 419, section 13, was undertaken in response to changes to 23 U.S.C. § 164, "Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence," effected by the SAFETEA-LU Technical Corrections Act of 2008, Public Law No. 110-244, § 115, 122 Stat. 1572 (June 6, 2008), and that Iowa Code section 321J.4(2) as amended by 2009 Iowa Acts, Senate File 419, section 13, is intended to remain and be interpreted in conformance with the requirements of 23 U.S.C. § 164, including the requirements for restricted driving privileges after 45 days.~~

b. ~~Accordingly, any provision in subrules 620.3(1) to 620.3(5) notwithstanding, any temporary restricted license issued to a person whose driving privilege is revoked under Iowa Code section 321J.4(2) shall be limited during the first year of the two-year revocation period to driving to and from work when necessary to maintain the person's present employment, and shall not be allowed for any other purpose, including but not limited to transporting dependent children to and from a location for child care. After the first year of the two-year revocation period, a temporary restricted license issued~~

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~~to a person whose driving privilege is revoked under Iowa Code section 321J.4(2) may permit the person to drive to and from work as well as for any other work purpose when necessary to maintain the person's present employment and may permit the person to transport dependent children to and from a location for child care when that activity is essential to continuation of the person's employment.~~

~~e.—All pleadings and orders submitted by the department under Iowa Code section 321J.4(9) in regard to a person whose driving privilege is revoked under Iowa Code section 321J.4(2) will be in accord with the requirements of this subrule, and the department shall enforce any order authorizing the department to issue a temporary restricted license to a person whose driving privilege is revoked under Iowa Code section 321J.4(2) according to the requirements of this subrule.~~

~~d.—The department interprets 2009 Iowa Acts, Senate File 419, section 13, as applying to convictions entered on or after July 1, 2009, and accordingly this subrule shall apply to revocations arising from convictions entered on or after July 1, 2009.~~

ITEM 3. Amend rule 761—620.4(321J) as follows:

761—620.4(321J) Hearings and appeals.

620.4(1) Contested case hearing.

a. A person may request a contested case hearing by checking the appropriate box on Form 432018 and submitting it to the department or by submitting a written request to the director of ~~the office of~~ driver and identification services at the address given in 761—620.2(321J). The request shall include the person's name, date of birth, driver license number, complete address and telephone number.

b. No change.

c. A request for a hearing to contest a revocation shall be submitted within ten days after receipt of the revocation notice. The request shall be deemed timely submitted if it is delivered to the director of ~~the office of~~ driver and identification services or properly addressed and postmarked within this time period.

d. and e. No change.

620.4(2) Appeal. A decision by a presiding officer shall become the final decision of the department and shall be binding on the department and the person who requested the hearing unless either appeals the decision in accordance with this subrule.

a. and b. No change.

c. An appeal of the presiding officer's decision shall be submitted in writing by sending the original and one copy of the appeal to the director of ~~the office of~~ driver and identification services at the address given in 761—620.2(321J).

d. An appeal shall be deemed timely submitted if it is delivered to the director of ~~the office of~~ driver and identification services or properly addressed and postmarked within ten days after receipt of the presiding officer's decision.

e. The director of ~~the office of~~ driver and identification services shall forward the appeal to the director of transportation. The director of transportation may affirm, modify or reverse the decision of the presiding officer, or may remand the case to the presiding officer.

f. No change.

620.4(3) and 620.4(4) No change.

620.4(5) Petition to reopen a hearing.

a. A petition to reopen a hearing pursuant to Iowa Code section 17A.16 shall be submitted in writing to the director of ~~the office of~~ driver and identification services at the address in 761—620.2(321J). If a petition is based on a court order, a copy of the court order shall be submitted with the petition. If a petition is based on new evidence, the petitioner shall submit a concise statement of the new evidence and the reason(s) for the unavailability of the evidence at the original hearing.

b. No change.

c. A person may appeal a denial of the petition to reopen. The appeal shall be deemed timely if it is delivered to the director of ~~the office of~~ driver and identification services at the address in

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761—620.2(321J) or properly addressed and postmarked within 20 days after issuance of the decision denying the petition to reopen.

ITEM 4. Amend rule 761—620.5(321J) as follows:

~~761—620.5(321J) Reinstatement. When the revocation period has ended, a person shall be notified by the department to appear before a driver's license examiner to obtain a motor vehicle license. The license may be issued.~~ The department may reinstate the license when the revocation has ended if the person has:

620.5(1) to 620.5(6) No change.

~~620.5(7) Provided proof of deinstallation of the ignition interlock device if one was installed for a temporary restricted license. Provided, if required by Iowa Code section 321J.17(3), proof of installation of an approved ignition interlock device or proof the person remains in compliance with the ignition interlock device requirement if the device was installed for a temporary restricted license.~~

620.5(8) Provided, if required in accordance with Iowa Code section 321J.20, proof of participation in and compliance with the sobriety and drug monitoring program.

ITEM 5. Amend subrule 620.15(1) as follows:

620.15(1) Reporting.

~~a. A provider of a substance abuse program shall report to the department on a form and in a manner approved by the department when~~ When a person who has been ordered to attend the a substance abuse program has satisfactorily completed the program, the program provider shall electronically report completion to the department in a manner approved by the department.

~~b. Reporting to the department shall be in accordance with Iowa Code sections 125.37, 125.84 and 125.86 and the federal confidentiality regulations, "Confidentiality of Alcohol and Drug Abuse Patient Records," 42 CFR Part 2, effective June 9, 1987.~~

ITEM 6. Amend subrule 620.16(1) as follows:

620.16(1) Reporting.

~~a. A community college conducting a drinking drivers course shall report to the department on a form and in a manner approved by the department when~~ When a person who has been ordered to attend the a drinking drivers course has successfully completed it the course, the program provider under Iowa Code section 321J.22(2) "a" shall electronically report completion to the department in a manner approved by the department.

~~b. Reserved.~~

ITEM 7. Adopt the following new rule 761—620.17(321J):

761—620.17(321J) Sobriety and drug monitoring program. When the department revokes a person's driver's license under Iowa Code chapter 321J, and the person seeks a temporary restricted license, or the person seeks reinstatement of the person's driver's license under Iowa Code section 321J.17, the department shall, if applicable, require the person to participate in and comply with the sobriety and drug monitoring program.

620.17(1) Condition of license. Participation in and compliance with the sobriety and drug monitoring program shall be a condition of the license if all of the following apply:

a. The person committed an eligible offense as defined in Iowa Code section 901D.2(4). A first offense means the person has no previous revocation under Iowa Code chapter 321J, and a second or subsequent offense means the person has had a previous revocation under Iowa Code chapter 321J.

b. The eligible offense was committed in a participating jurisdiction.

620.17(2) Duration. Unless otherwise provided in Iowa Code chapter 901D or Iowa Code section 321J.20, the person shall be required to participate in the sobriety and drug monitoring program for the length of time that an ignition interlock device is required as provided in Iowa Code section 321J.20.

620.17(3) Excuse from participation and compliance. Participation in and compliance with the sobriety and drug monitoring program shall not be required as a condition of the person's driver's license if the court enters an order finding the person is not required to participate in and comply with the program.

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620.17(4) Cancellation. If the department is notified that a person required to participate in the sobriety and drug monitoring program has not completed enrollment in the program, the department shall cancel the person's driver's license in accordance with the department's existing provisions for cancellation of a license.

620.17(5) Noncompliance. If the department is notified pursuant to Iowa Code section 901D.9 that a person required to participate in the sobriety and drug monitoring program is no longer in compliance with the program, the department shall revoke the person's driver's license in accordance with the department's existing provisions for revocation of a license.

ITEM 8. Amend **761—Chapter 620**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 17A, ~~and~~ 321J and 901D and sections 321.193, 321.201, 321.376 and 707.6A.

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[Published 9/12/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/12/18.

ARC 4002C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rule making related to undercover driver's licenses

The Department of Transportation hereby amends Chapter 625, "Driver's Licenses for Undercover Law Enforcement Officers," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 307.12 and 321.189A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 80G.3 and 321.189A and 6 CFR Part 37.

Purpose and Summary

This rule making updates Chapter 625 to incorporate amendments that align with existing legal authority and Department practice and to eliminate outdated or irrelevant requirements or options.

The office name and address are corrected to accurately identify the Bureau of Investigation and Identity Protection as the office responsible for the review associated with the issuance of undercover licenses under this chapter, and the amendments clarify that an investigation of an application for an undercover driver's license will consist of verification of the applicant's employment with the sponsoring law enforcement agency and will no longer include a check of a fictitious social security number as those numbers are no longer being used.

The process of issuing a driver's license to an undercover law enforcement officer is amended to align the rule with the current practice of requiring an applicant to appear at the Motor Vehicle Division headquarters in Ankeny, Iowa, in order to be issued the initial undercover driver's license; to clarify that the requirements of rule 761—601.5(321), related to proofs submitted with an application, are waived in conformance with the authority in the federal REAL ID regulations in 6 CFR Part 37 for issuance of credentials to undercover law enforcement officers; and to rescind rule 761—625.4(321), relating to renewal of an undercover driver's license, and move the content of that rule to new subrule 625.3(3). An undercover driver's license may not be renewed, but a new application may be submitted and, if

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accepted, the Department may issue a new undercover license for an individual who continues to meet the undercover license criteria.

Finally, the amendments add cross references to Iowa Code section 80G.3, which relates to the confidential treatment of undercover law enforcement records, and to 6 CFR Part 37, which relates to the documentation required for issuance of a credential to undercover law enforcement officers in accordance with the federal REAL ID regulations.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 4, 2018, as **ARC 3866C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on August 15, 2018.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on October 17, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph **625.2(1)“e”** as follows:

e. Be submitted to the ~~office of driver services at the address in rule 761—600.2(17A)~~ Bureau of Investigation and Identity Protection, Iowa Department of Transportation, 6310 SE Convenience Blvd., Ankeny, Iowa 50021.

ITEM 2. Amend subrule 625.2(2) as follows:

625.2(2) All applications shall be investigated by the department. An investigation shall include, but not be limited to, a 50-state check of the fictitious name and, ~~if provided, fictitious social security number~~ verification of the applicant's employment with the sponsoring law enforcement agency.

ITEM 3. Amend rule 761—625.3(321) as follows:

761—625.3(321) Issuance.

625.3(1) To obtain an undercover license after the application is approved, the applicant must appear ~~at a driver's license examination station that has record capabilities~~ the Motor Vehicle Division offices,

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Iowa Department of Transportation, 6310 SE Convenience Blvd., Ankeny, Iowa, with all applicable documents necessary for the issuance of an undercover license.

625.3(2) A two-year license will be issued. The applicant must pay all fees and meet all requirements for the class of license applied for, except that ~~761—subrule 601.5(1)~~ rule 761—601.5(321) is waived in accordance with the provisions in 6 CFR Part 37.

625.3(3) An undercover license may not be renewed. The department may issue a subsequent new undercover license to an applicant who submits a new application and continues to meet the requirements of rule 761—625.2(321).

ITEM 4. Rescind and reserve rule ~~761—625.4(321)~~.

ITEM 5. Amend subrule 625.6(1) as follows:

625.6(1) Applications, forms and other records of the department that establish the true identity of an applicant or licensee under this chapter are confidential public records under Iowa Code sections 22.7, 80G.3 and 321.189A. The fictitious license information itself is not confidential, except as provided in Iowa Code section 321.11.

ITEM 6. Amend ~~761—Chapter 625~~, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 22.7, 80G.3 and 321.189A and 6 CFR Part 37.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/12/18.