



# 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.

STEPHANIE A. HOFF, Administrative Code Editor

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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 2017

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

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
8	Friday, September 22, 2017	October 11, 2017
9	Friday, October 6, 2017	October 25, 2017
10	Wednesday, October 18, 2017	November 8, 2017

**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\*\*\***

**EDUCATION DEPARTMENT[281]**

Teacher quality program, 83.1 to 83.3, 83.4(9), 83.5(3), 83.6(1)“e,” 83.7 IAB 8/30/17 <b>ARC 3271C</b>	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	September 19, 2017 10 to 11 a.m.
Financial management of categorical funding, amendments to ch 98 IAB 8/30/17 <b>ARC 3270C</b>	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	September 19, 2017 9 to 10 a.m.

**ENVIRONMENTAL PROTECTION COMMISSION[567]**

Reissuance of NPDES General Permit Nos. 1, 2, and 3 for discharge from storm water, 64.15 IAB 9/13/17 <b>ARC 3309C</b>	Conference Rooms 5 East and West Wallace State Office Bldg. Des Moines, Iowa	October 10, 2017 2 to 3 p.m.
Reissuance of NPDES General Permit No. 4 for discharge from private sewage disposal systems, 64.15(4) IAB 9/13/17 <b>ARC 3310C</b>	Conference Room 5 East Wallace State Office Bldg. Des Moines, Iowa	October 3, 2017 2:30 to 4:30 p.m.

**INSURANCE DIVISION[191]**

Health insurance sales—reciprocal protections for seniors moving between a Medicare supplement policy and a Medicare Part C policy, 15.5 IAB 9/13/17 <b>ARC 3318C</b>	Division Office, Fourth Floor 601 Locust St. Des Moines, Iowa	October 4, 2017 10:30 a.m.
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**NATURAL RESOURCE COMMISSION[571]**

Paddlefish fishing; catfish and bass fishing tournaments, 44.2, 44.4, 81.2 IAB 8/30/17 <b>ARC 3279C</b>	Conference Room 4W Wallace State Office Bldg. Des Moines, Iowa	September 19, 2017 12 noon to 3 p.m.
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**SECRETARY OF STATE[721]**

Election administration; voting; voter identification and registration, amendments to chs 21, 22, 26, 28 IAB 8/30/17 <b>ARC 3282C</b>	Secretary of State Office Lucas State Office Bldg. Des Moines, Iowa	October 16, 2017 3 p.m.
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**TRANSPORTATION DEPARTMENT[761]**

Public improvement quotation process for governmental entities, amendments to ch 180 IAB 8/30/17 <b>ARC 3269C</b>	South Conference Room, First Floor Administration Bldg. 800 Lincoln Way Ames, Iowa	September 21, 2017 10 a.m. (If requested)
Electronic application for vehicle title and registration, 400.1, 400.3, 400.4(10) IAB 9/13/17 <b>ARC 3306C</b>	Motor Vehicle Division Offices 6310 SE Convenience Blvd. Ankeny, Iowa	October 5, 2017 1 p.m. (If requested)

Persons with disabilities special registration plates and parking permits, amend 401.20; adopt ch 411 IAB 9/13/17 <b>ARC 3304C</b>	Motor Vehicle Division Offices 6310 SE Convenience Blvd. Ankeny, Iowa	October 5, 2017 9 a.m. (If requested)
Application for driver's license or permit or nonoperator's identification card, amendments to chs 601, 605, 630 IAB 9/13/17 <b>ARC 3307C</b>	Motor Vehicle Division Offices 6310 SE Convenience Blvd. Ankeny, Iowa	October 5, 2017 2:30 p.m. (If requested)
Motorcycle rider education—update of Iowa Code references, amendments to ch 635 IAB 9/13/17 <b>ARC 3305C</b>	Motor Vehicle Division Offices 6310 SE Convenience Blvd. Ankeny, Iowa	October 5, 2017 10 a.m. (If requested)
<b>VOTER REGISTRATION COMMISSION[821]</b>		
Voter registration; status; lists of registered voters; election registers, 2.8(3), 2.10, 2.14, 2.15, 3.10, 5.1(1), 7.2 IAB 8/30/17 <b>ARC 3283C</b>	Secretary of State Office Lucas State Office Bldg. Des Moines, Iowa	October 16, 2017 3 p.m.

The following list will be updated as changes occur.

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

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

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

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## ARC 3308C

## ATTORNEY GENERAL[61]

## Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 537.6117, the Attorney General (the Department) hereby gives Notice of Intended Action to amend Chapter 22, “Notification and Fees,” Iowa Administrative Code.

The Attorney General serves as the Administrator of the Iowa Consumer Credit Code (ICCC). The duties of the Administrator include receiving and acting on complaints, taking action to obtain voluntary compliance with the ICCC, bringing ICCC enforcement proceedings, counseling on duties under the ICCC, and educating on consumer credit. Under the provisions of Iowa Code section 537.6203, the Department, in order to partially fund its role as Administrator, collects various fees from creditors and debt collectors operating in the state of Iowa. These fees include a late charge from any creditor or debt collector who fails to pay the required annual fees in full within 30 days after their due date.

The proposed amendment increases the amount of the late charge assessed by the Department from \$25 to \$75. The proposed amendment corresponds with Iowa Code section 537.6203(4) as amended by 2017 Iowa Acts, Senate File 502. The General Assembly increased the maximum amount that may be assessed as a late charge from \$25 to \$75, effective July 1, 2017. The proposed amendment to subrule 22.6(1) increases the late charge assessed by the Department accordingly.

It should be noted that this is only one of several ICCC fee increases allowed by the General Assembly in Senate File 502. Other increases that occurred automatically by statute include the following: the annual notification fees paid by creditors and debt collectors to the Department, late fees charged to consumers, penalties charged to creditors and debt collectors, and fees which creditors are entitled to charge. The statutory amounts of these fees had remained largely unchanged for over 40 years.

The proposed amendment is not subject to waiver.

Any interested person may make written suggestions or comments on the proposed amendment on or before October 3, 2017. Such written materials should be directed to Jessica Whitney, Special Assistant Attorney General, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319; fax (515)281-4313; or by e-mail to [jessica.whitney@iowa.gov](mailto:jessica.whitney@iowa.gov). Persons who wish to convey their views orally should contact Jessica Whitney at (515)281-8772.

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

This amendment is intended to implement Iowa Code section 537.6203(4) as amended by 2017 Iowa Acts, Senate File 502.

The following amendment is proposed.

Amend subrule 22.6(1) as follows:

**22.6(1) Late charge.** The administrator may collect a late charge of ~~\$25~~ \$75 from any party subject to Iowa Code sections 537.6201 to 537.6203 who has failed to pay the required fees in full within 30 days after their due date.



**ARC 3309C**

**ENVIRONMENTAL PROTECTION COMMISSION[567]**

**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 455B.103A, 455B.105(3), and 455B.173, the Environmental Protection Commission (Commission) hereby gives Notice of Intended Action to amend Chapter 64, “Wastewater Construction and Operation Permits,” Iowa Administrative Code.

The proposed amendments to Chapter 64 reissue National Pollutant Discharge Elimination System (NPDES) General Permits Nos. 1, 2 and 3, which authorize the discharge of storm water. General Permits Nos. 1, 2 and 3 were last reissued in 2012 for a five-year duration and expire October 1, 2017. These amendments will renew all three permits, extending their coverage for another five years, to expire January 31, 2023. General permits for storm water discharges are required to be adopted by reference and are effective for no more than five years as specified in the Iowa Administrative Code.

No changes other than changes in dates and updates to Iowa Code and Iowa Administrative Code references are proposed for General Permit No. 1.

Several changes are proposed for General Permit No. 2 (GP2). These changes include updates to federal effluent requirements for construction and development point sources set out in 40 CFR §450.21. One of the federal requirements is that areas of sites where construction activity will not occur for 14 or more days must have stabilization measures initiated immediately. The current requirement in GP2 is that areas of sites where construction activity will not occur for 21 or more days must have stabilization measures initiated on those areas no later than 14 days after no construction activity has occurred on them. The proposed changes to GP2 will adopt the federal requirement regarding soil stabilization. Other than this soil stabilization requirement, all federal effluent requirements being added to GP2 are already found in various sections of the general permit though described using different verbiage. Other changes proposed for GP2 are clarifications of existing requirements and updates to Iowa Code and Iowa Administrative Code references.

The changes proposed for General Permit No.3 are a clarification, added at the request of stakeholders, that explains an existing prohibition on the discharge of vehicle washwaters, changes in effective dates and updates to Iowa Code and Iowa Administrative Code references.

It is not the intent of the Commission that the textual changes in general permits be adopted in the Iowa Administrative Code but that these changes be made in the general permits themselves, which are adopted by reference into the Iowa Administrative Code.

Copies of the proposed revised general permits are available upon request from the Department of Natural Resources (Department) at the address or telephone number below.

Any interested party may make written comments on the proposed amendments on or before October 18, 2017. Written comments should be directed to Joe Griffin, Storm Water Coordinator, Iowa Department of Natural Resources, 502 East 9th Street, Des Moines, Iowa 50319; e-mail [joe.griffin@dnr.iowa.gov](mailto:joe.griffin@dnr.iowa.gov); or fax (515)725-8202. Persons who wish to convey their views orally should contact Mr. Griffin at (515)725-8417 or at the Department’s offices on the fifth floor of the Wallace State Office Building.

A public hearing will be held on October 10, 2017, from 2 to 3 p.m. at the Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa, in the fifth floor conference rooms (5 East and West). At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

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

Any person who intends to attend the public hearing and has special requirements, such as those related to mobility or hearing impairments, should contact the Department to advise of any specific needs.

After analysis and review of this rule making, these amendments are expected to have minimal or no effect on jobs and employment opportunities. The requirements of the proposed amendments can be achieved with minimal disruption in the operations that occur during development and construction. Moreover, these amendments are already required under federal law, and the state is required to adopt these standards for purposes of implementing the federal NPDES permit program. A copy of the Jobs Impact Statement is available upon request.

These amendments are intended to implement Iowa Code sections 455B.103A, 455B.105(3), 455B.173 and 455B.186.

The following amendments are proposed.

ITEM 1. Amend subrule 64.15(1) as follows:

**64.15(1)** Storm Water Discharge Associated with Industrial Activity, NPDES General Permit No. 1, effective ~~October 1, 2012~~ February 1, 2018, to ~~October 1, 2017~~, as amended on ~~March 26, 2014~~ January 31, 2023. Facilities assigned Standard Industrial Classification 1442, 2951, or 3273, and those facilities assigned Standard Industrial Classification 1422 or 1423 which are engaged primarily in rock crushing are not eligible for coverage under General Permit No. 1.

ITEM 2. Amend subrule 64.15(2) as follows:

**64.15(2)** Storm Water Discharge Associated with Industrial Activity for Construction Activities, NPDES General Permit No. 2, effective ~~October 1, 2012~~ February 1, 2018, to ~~October 1, 2017~~, as amended on ~~August 12, 2015~~ January 31, 2023.

ITEM 3. Amend subrule 64.15(3) as follows:

**64.15(3)** Storm Water Discharge Associated with Industrial Activity from Asphalt Plants, Concrete Batch Plants, Rock Crushing Plants, and Construction Sand and Gravel Facilities, NPDES General Permit No. 3, effective ~~October 1, 2012~~ February 1, 2018, to ~~October 1, 2017~~, as amended on ~~March 26, 2014~~ January 31, 2023. General Permit No. 3 authorizes storm water discharges from facilities primarily engaged in manufacturing asphalt paving mixtures and which are classified under Standard Industrial Classification 2951, primarily engaged in manufacturing Portland cement concrete and which are classified under Standard Industrial Classification 3273, those facilities assigned Standard Industrial Classification 1422 or 1423 which are primarily engaged in the crushing, grinding or pulverizing of limestone or granite, and construction sand and gravel facilities which are classified under Standard Industrial Classification 1442. General Permit No. 3 does not authorize the discharge of water resulting from dewatering activities at rock quarries.

**ARC 3310C**

**ENVIRONMENTAL PROTECTION COMMISSION[567]**

**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 455B.173(11), the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 64, “Wastewater Construction and Operation Permits,” Iowa Administrative Code.

The purpose of this proposed amendment is to reissue the existing National Pollutant Discharge Elimination System (NPDES) Private Sewage Disposal Systems General Permit known as General Permit No. 4 (GP4). This permit authorizes discharges from private sewage disposal systems such as

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

sand filters, other media filters, and aerobic treatment units that will reach a designated water of the state or a subsurface drainage tile. These types of systems are used where soil absorption is not possible due to soil or geological conditions or the presence of a high groundwater table. The permit will be renewed for five years, and the only changes being made to the permit are updates to the effective dates. There are no fees associated with GP4.

Any interested person may file written comments on the proposed amendment on or before October 18, 2017. Written comments or questions regarding the proposed amendment should be directed to Daniel A. Olson, Iowa Department of Natural Resources, 502 East 9th Street, Des Moines, Iowa 50309-0034; via fax at (515)725-8202; or via e-mail at [daniel.olson@dnr.iowa.gov](mailto:daniel.olson@dnr.iowa.gov).

A copy of the proposed GP4 is available online at [www.iowadnr.gov/Environmental-Protection/Water-Quality/Private-Septic-Systems/General-Permit-4](http://www.iowadnr.gov/Environmental-Protection/Water-Quality/Private-Septic-Systems/General-Permit-4).

A public hearing where persons may present their views orally or in writing will be held on October 3, 2017, from 2:30 to 4:30 p.m. at the Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa, in the fifth floor conference room 5E. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

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

After analysis and review of this rule making, it has been determined that there will be no impact on private sector jobs and employment opportunities in Iowa. GP4 has been in existence since 1998 (and in its current form since 2012) and has been accepted by the private sewage industry and rural homeowners as necessary to allow the discharge of treated private sewage disposal system effluent to a designated water of the state or to a subsurface drainage tile.

This amendment is intended to implement Iowa Code sections 455B.183(1)“c” and 455B.173(11).

The following amendment is proposed.

Amend subrule 64.15(4) as follows:

**64.15(4)** “Discharge from Private Sewage Disposal Systems,” NPDES General Permit No. 4, effective ~~March 18, 2009~~ February 1, 2018, to ~~March 17, 2011~~ January 31, 2023.

**ARC 3318C**

## INSURANCE DIVISION[191]

### Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 505.8 and chapter 507B, the Iowa Insurance Division (the Division) hereby gives Notice of Intended Action to amend Chapter 15, “Unfair Trade Practices,” Iowa Administrative Code.

Chapter 15 establishes standards and conduct that have been identified as unfair methods of competition and unfair or deceptive acts or practices in business. The purpose of this amendment is to protect Iowa consumers by providing reciprocal protections for seniors who move between Medicare supplement insurance and Medicare Part C insurance (also known as Medicare Advantage) as well as providing for a refund of unearned premiums. While the law currently prevents the possibility of consumers’ having more than one Medicare supplement policy, no such protection exists for consumers who change from a Medicare supplement policy to a Medicare Part C policy. Once a consumer has a Medicare Part C policy, no claims can be paid by the issuer of the consumer’s Medicare supplement policy, negating the possibility of the Medicare supplement issuer providing any benefits concurrently on the Medicare Part C policy.

INSURANCE DIVISION[191](cont'd)

Any interested party may make written suggestions or comments on the proposed amendment on or before October 4, 2017, at 4:30 p.m. Such written materials should be directed to Angel Robinson, Iowa Insurance Division, 601 Locust Street, Fourth Floor, Des Moines, Iowa 50309. Comments may also be submitted by fax at (515)281-3059 or by e-mail at [angel.robinson@iid.iowa.gov](mailto:angel.robinson@iid.iowa.gov).

A public hearing regarding the proposed amendment will be held on October 4, 2017, at 10:30 a.m. at the Iowa Insurance Division office located at 601 Locust Street, Fourth Floor, Des Moines, Iowa. Individuals intending to attend the hearing who require assistive services or devices to observe or participate should contact Angel Robinson at (515)281-4038.

The proposed amendment is subject to the general waiver provisions of the Division in rule 191—4.24(17A).

The Division intends that the amended rule shall become effective December 13, 2017. Compliance with the amended rule will begin on January 1, 2018.

This amendment is intended to implement Iowa Code section 505.8 and chapter 507B.

The following amendment is proposed.

Amend rule 191—15.5(507B) as follows:

**191—15.5(507B) Health insurance sales to individuals 65 years of age or older.**

**15.5(1)** The sale of duplicate Medicare supplement insurance is prohibited.

**15.5(2)** In recommending the purchase or replacement of any Medicare supplement policy, certificate, or a Medicare Part C policy, an agent shall make reasonable efforts to determine the appropriateness of the recommended purchase. Upon a sale, an agent shall require the signing of a notice which states that a Medicare Part C policy replaces a Medicare supplement policy, the Medicare supplement policy will not pay a claim so long as the client has a Medicare Part C policy, and that the client must contact the client's Medicare supplement insurer if the client wishes to cancel the Medicare supplement policy.

**15.5(3)** Upon notice, an issuer of a Medicare supplement policy shall terminate a policyholder's or certificate holder's Medicare supplement policy with that issuer on the earliest effective date of the same policyholder's or certificate holder's Medicare Part C policy, when the two types of policies coincide. The policyholder or certificate holder may provide notice to the issuer that the policyholder or certificate holder desires to terminate the policy or certificate. Upon receiving supportive documentation, the Medicare supplement issuer shall refund any premium to the policyholder or certificate holder for the months of concurrent Medicare supplement and Medicare Part C policy coverage. This subrule shall not be construed to require a refund of premium for any period of time in excess of two years prior to the date that written notice is provided to an issuer.

**ARC 3306C**

**TRANSPORTATION DEPARTMENT[761]**

**Notice of Intended Action**

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

Pursuant to the authority of Iowa Code sections 307.12, 307A.2 and 321.20, the Iowa Department of Transportation hereby gives Notice of Intended Action to amend Chapter 400, "Vehicle Registration and Certificate of Title," Iowa Administrative Code.

The Department is proposing amendments to Chapter 400 to comply with 2016 Iowa Acts, Chapter 1083, sections 1 and 2, which amended Iowa Code section 321.20. The proposed amendments define the specific process requirements for an electronic application for a vehicle title and registration transaction, including the roles and responsibilities of an electronic registration and titling (ERT) service provider approved by the Department to facilitate electronic applications for vehicle titles and registrations from an end user (a motor vehicle dealer or an individual) to the county treasurer. Proposed subrule 400.3(16)

## TRANSPORTATION DEPARTMENT[761](cont'd)

serves as a basis for agreements that may be executed between the Department and an approved ERT service provider.

The following explains each item in this rule making:

Item 1 adds definitions for new terms used within the chapter, specifically, definitions of “electronic,” “electronic record,” “electronic signature,” “end user,” and “ERT service provider.”

Item 2 adds language which states that an application for certificate of title or registration may be submitted in an electronic format.

Item 3 provides that the signature of an applicant for a certificate of title or registration may be submitted in an electronic format.

Item 4 provides that a dealer certification regarding the sale price of a vehicle, the amounts allowed for property traded-in, nontaxable charges and rebates, the tax price of the vehicle, the date that a “registration applied for” card was issued, and the registration fee may be submitted in an electronic format when the application for a certificate of title or registration is also submitted electronically.

Item 5 adds new subrule 400.3(16) to define the roles, responsibilities, and requirements of the ERT process that will serve as the basis for an agreement between the Department and an approved ERT service provider. The following further explains the proposed paragraphs within subrule 400.3(16):

- Paragraph “a” explains the role of an ERT service provider in the electronic application process. Specifically, this paragraph identifies that an application for a certificate of title or registration of a vehicle may be submitted electronically via a Web-based service that is offered and maintained by an ERT service provider. Paragraph “a” provides that an ERT service provider must execute an authorizing agreement with the Department and that the terms of the agreement are prescribed by the Department. Additionally, the paragraph proposes that the ERT service provider must meet minimum qualifications in relation to technical, financial, legal, and administrative capacity to meet the Department’s satisfaction and also retain the ability and capacity to interface with the Department’s vehicle title and registration system. Lastly, the proposed paragraph provides that the authorizing agreements between the Department and an ERT service provider shall include provisions that address security, financial responsibility, privacy, termination, and any other matters deemed appropriate by the Department.

- Paragraph “b” provides that an ERT service provider shall execute an authorizing agreement with the Department as a condition of operating in such a capacity and also provides the liability provisions which specify that an ERT service provider shall be fully liable for any liabilities the provider incurs as a result of its actions as an agent for an end user, which may be a person or a business using the ERT service.

- Paragraph “c” provides that an authorized ERT service provider may establish Web-based services to allow end users to submit electronic applications for a certificate of title or registration to a county treasurer via the Department’s ERT process and application program interface established by the Department. The paragraph provides that an ERT service provider is not in any manner a vendor for the Department. Instead, the ERT service provider acts as a contractor or vendor for an end user, and the end user’s sole course of recourse is against the ERT service provider and not the Department. The paragraph also allows the ERT service provider to charge the end user a fee for its services.

- Paragraph “d” provides that an end user that is a licensed motor vehicle dealer may charge the dealer’s customer a separate and distinct fee for the ERT provider’s services as long as the dealer discloses the charge to the customer before submitting the application. However, that fee may not be included as a part of the documentary fee. The paragraph also confirms that no fees may be charged for a “registration applied for” card.

- Paragraph “e” confirms that an authorized ERT service provider does not have the authority to approve or deny a certificate of title or registration application and that an application is not considered submitted to the county treasurer until it is electronically submitted to the county treasurer by the ERT service provider. Paragraph “e” also confirms that the county treasurer remains responsible for approving or denying an application for a certificate of title or registration.

- Paragraph “f” states that an authorized ERT service provider is responsible for the ERT service provider’s payment solution and for all payment transaction security and compliance with all applicable standards associated with the payment solution or solutions offered by the ERT service provider. Further,

## TRANSPORTATION DEPARTMENT[761](cont'd)

paragraph “f” provides that the ERT service provider shall route the pertinent application fees to an account designated by the county treasurer. The fees shall be available to the county treasurer no later than three business days following the submission of a transaction for which the fees were paid. The paragraph also confirms that the ERT service provider shall be responsible for reconciling insufficient funds from an end user.

- Paragraph “g” provides that the fees submitted with an electronic application for certificate of title or registration are not deemed received by the county treasurer until the fees are received into the county treasurer’s account via the completion of an automated clearing house (ACH) transfer. Additionally, paragraph “g” requires an ERT service provider to furnish a surety bond that runs to the state of Iowa in the amount of \$150,000 and requires the ERT service provider to indemnify any end user that uses the services from loss or damage caused by the ERT service provider’s noncompliance. The paragraph provides that the bond shall be filed with the Department before the ERT service provider may be approved to begin offering services as an ERT service provider.

- Paragraph “h” provides that an ERT service provider shall provide accounting reports of all fees received and transferred to each county treasurer, in a manner prescribed by the Department.

- Paragraph “i” provides that an ERT service provider shall submit to audits by the Department and the state auditor. The audits are required annually but may be more frequent if determined necessary by the Department or the state auditor.

- Paragraph “j” provides that an electronically submitted application for certificate of title or registration must meet all legal requirements for the transaction, that no requirements shall be excused or waived as a result of the electronic submittal of the transaction, and that the requisite signatures may be submitted electronically. The county treasurer retains the right to determine the genuineness, regularity, and legality of the application and may, whenever there is any question about the application, require the original document as a condition of accepting an application. Further, paragraph “j” requires the end user that submitted the application to retain any original document scanned and submitted with the electronic application for three years at the end user’s principal place of business if the end user is a business. However, the paragraph provides that a damage disclosure statement shall be retained for five years from the date of the application where required by Iowa Code section 321.69. Lastly, the paragraph requires that all of the scanned documents submitted as a component of an electronic application shall be available for inspection by the Department. This requirement aligns with the current requirements and departmental procedures for paper applications.

- Paragraph “k” requires an end user that is a licensed motor vehicle dealer to inform the customer that the application for title or registration will be submitted electronically. Paragraph “k” requires the motor vehicle dealer to obtain the customer’s power of attorney to permit the motor vehicle dealer to submit the application on the customer’s behalf and to scan the power of attorney with the electronic documents as a part of the application. The paragraph further requires the dealer to retain the power of attorney for three years at the dealer’s principal place of business and provides that the power of attorney is subject to inspection by the Department. In the interest of consumer protection, paragraph “k” also requires the dealer to review the details of the entire application with the customer before submitting the electronic application and to provide the customer with a copy of the application after submitting it.

- Paragraph “l” provides that 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, 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. Further, paragraph “l” requires the ERT service provider to use a secure profile management capable of authenticating and verifying any user that initiated the submission for an application or transaction.

- Paragraph “m” provides that an ERT service provider shall comply with the privacy protections and requirements of Iowa Code section 321.11 and with the federal Driver’s Privacy Protection Act, 18 U.S.C. Sec. 2721 et seq. (DPPA), and shall only use or release personal information provided to the ERT provider in the course of an ERT transaction for purposes necessary to perform services as an ERT service provider, and shall not release such personal information for any other purpose or use except as

## TRANSPORTATION DEPARTMENT[761](cont'd)

required to comply with legal or administrative matters as permitted under the DPPA. The paragraph also states that the ERT service provider shall immediately advise the Department and any potentially affected individual if there is a suspected or actual unauthorized release of personal information or highly restricted personal information.

Item 6 updates the chapter's implementation sentence to add a reference to Iowa Code sections 321.105A and 322.19A and to strike the reference to Iowa Code section 423.7A since this section was repealed.

Item 7 provides that the county treasurer is exempted from retaining the supporting documents submitted as a component of an electronic application for a certificate of title or registration. County treasurers are still required to maintain any paper applications.

These rules do not provide for 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.

Any person or agency may submit written comments concerning these proposed amendments or may submit a written request to make an oral presentation. The comments or request shall:

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.
3. Indicate the general content of a requested oral presentation.
4. Be addressed to Tracy George, Rules Administrator, Iowa Department of Transportation, Strategic Communications and Policy, 800 Lincoln Way, Ames, Iowa 50010; e-mail: [tracy.george@iowadot.us](mailto:tracy.george@iowadot.us).
5. Be received by the Department's rules administrator no later than October 3, 2017.

A meeting to hear requested oral presentations is scheduled for Thursday, October 5, 2017, at 1 p.m. at the Iowa Department of Transportation's Motor Vehicle Division offices located at 6310 SE Convenience Boulevard, Ankeny, Iowa.

The meeting will be canceled without further notice if no oral presentation is requested.

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

These amendments are intended to implement Iowa Code sections 321.20 and 322.19A.

The following amendments are proposed.

ITEM 1. Adopt the following **new** definitions of "Electronic," "Electronic record," "Electronic signature," "End user" and "ERT service provider" in rule **761—400.1(321)**:

"*Electronic*" means as defined in Iowa Code section 554D.103.

"*Electronic record*" means as defined in Iowa Code section 554D.103.

"*Electronic signature*" means as defined in Iowa Code section 554D.103.

"*End user*" means a person or entity that directly uses the services of an electronic registration and titling (ERT) service provider to submit an electronic application for certificate of title or registration of a vehicle.

"*ERT service provider*" means a person or entity authorized by the department under subrule 400.3(16) to submit electronic applications for certificate of title or registration of a vehicle on behalf of an end user to a county treasurer.

ITEM 2. Amend subrule 400.3(1) as follows:

**400.3(1) Application form.** To apply for a certificate of title or registration for a vehicle, the owner of the vehicle shall complete an application form prescribed by the department, which may be electronic. Application shall be made in accordance with Iowa Code chapter 321, these rules, and other applicable provisions of law.

ITEM 3. Amend subrule 400.3(10) as follows:

**400.3(10) Signature of applicant.** The owner shall sign the application form in ink, unless submitted electronically.

## TRANSPORTATION DEPARTMENT[761](cont'd)

ITEM 4. Amend paragraph **400.3(11)“b”** as follows:

b. The certification shall include the dealer's number and name and shall be signed by the dealer or an authorized representative of the dealer. The signature may be electronic when the application form is submitted electronically in a manner approved by the department.

ITEM 5. Adopt the following **new** subrule 400.3(16):

**400.3(16) *Electronic applications.***

a. Applications for certificate of title or registration of a vehicle may be submitted electronically via Web-based services offered and maintained by ERT service providers authorized by the department. To be authorized to serve as an ERT service provider, the ERT service provider must establish to the satisfaction of the department that the ERT service provider has the technical, financial, legal, and administrative capacity to meet the department's requirements for submission of electronic applications and must execute an agreement, in a form and content determined by the department, that authorizes and permits the ERT service provider to interact with the department's vehicle title and registration system via an application program interface established by the department and to submit electronic applications on behalf of end users that choose to use the ERT service provider's services to submit an application electronically. Agreements executed by ERT service providers under this paragraph shall include provisions that address security, financial responsibility, privacy, termination, and any other matters deemed appropriate by the department.

b. An agreement executed by an ERT service provider is a condition of authorization and permission only. An ERT service provider authorized by the department is not a contractor, vendor, employee, or agent for the department, the state of Iowa, or any county treasurer accepting electronic applications, and shall not be entitled to compensation from the department, the state of Iowa, or any county treasurer for any service, transaction, or other act rendered as an ERT service provider. The ERT service provider remains solely liable and responsible for the ERT service provider's services and activities as an ERT service provider and shall defend, indemnify and hold harmless the department, any county treasurer, the state of Iowa, and its, or their agents, officers, heirs, assigns, and employees of and from any and all damages, claims, penalties, debts owed, or any other form of liability arising from or related to the ERT service provider's service, performance, errors, acts, or omissions. An ERT service provider that chooses to provide service under the department's permission and authorization does so at the ERT service provider's sole risk and has no claim or right against the department, any county treasurer, or the state of Iowa for fees, costs, profits, loss of profits, interruption of business, or any other form of compensation, remuneration, liability, or damages arising from or related to the ERT service provider's activity as an ERT service provider or inability to serve as an ERT service provider.

c. An ERT service provider authorized by the department may establish Web-based services to allow end users to submit applications via an electronic interface established and maintained by the ERT service provider and to submit the applications on behalf of the end user to county treasurers via the department's vehicle title and registration system and application program interface established by the department. In doing so, the ERT service provider is acting as a contractor or vendor for the end user and not the department, any county treasurer, or the state of Iowa, and remains solely responsible to the end user for any failure to perform or breach of performance or agreement. When the end user is a motor vehicle dealer licensed by the department under Iowa Code chapter 322 or 322C, "end user" includes the motor vehicle dealer and any person with an interest in the vehicle that is the subject of the application. The ERT service provider may charge the end user a fee for services rendered as an ERT service provider.

d. In addition to the documentary fee authorized under Iowa Code section 322.19A, an end user that is a motor vehicle dealer licensed by the department under Iowa Code chapter 322 or 322C may pass and charge to a customer the fees or costs incurred by the motor vehicle dealer to submit the customer's application through an ERT service provider's services as a third-party cost or fee under Iowa Code section 322.19A(1), provided that the motor vehicle dealer discloses the charge to the customer before submitting the application. The documentary fee charged by the motor vehicle dealer shall not exceed the amount authorized by Iowa Code section 322.19A(3). Neither the ERT service provider nor the motor vehicle dealer shall charge a customer for creation or delivery of a "registration applied for" card.



## TRANSPORTATION DEPARTMENT[761](cont'd)

*e.* An ERT service provider authorized by the department has no authority to approve or deny applications. Acceptance of an application by an ERT service provider is not approval of the application. An application is not considered to be formally submitted until it is electronically transmitted by the ERT service provider to the county treasurer via the department's vehicle title and registration system and the application program interface established by the department. The county treasurer remains responsible for approving or denying the application and may reject the application for any reason permitted or required by state or federal law or regulation.

*f.* An authorized ERT service provider is responsible for the ERT service provider's payment solution and for all payment transaction security and compliance with all applicable standards associated with the payment solution or solutions offered by the ERT service provider. The ERT service provider shall transfer title and registration fees collected by the ERT service provider directly to an account designated by the county treasurer responsible for the transaction via automated clearing house (ACH) transfer and the fees shall be available to the county treasurer no later than three business days following the submission of a transaction for which the fees were paid. Funds received by the ERT service provider shall be held until transfer to the county treasurer's account in a bank insured by the Federal Deposit Insurance Corporation. The ERT service provider shall be responsible for reconciling insufficient funds from an end user.

*g.* Fees submitted electronically are not deemed to be received until deposited into the county treasurer's account via completion of the ACH transfer. The end user remains responsible for fees submitted via an ERT service provider and the end user's responsibility for payment of any required fees is not waived or excused by the ERT service provider's failure to complete the transfer. As a condition of authorization and permission to serve as an ERT service provider and before the ERT service provider may offer services, the ERT service provider shall furnish a surety bond executed by the ERT service provider as principal and executed by a corporate surety company, licensed and qualified to do business within the state of Iowa. The bond shall run to the state of Iowa, be in the amount of \$150,000 and be conditioned upon the faithful compliance by the ERT service provider of all obligations imposed upon the ERT service provider by any applicable state or federal law or regulation, including the terms of this chapter, the authorizing agreement executed by the ERT service provider under this chapter, and any terms or conditions existing between the ERT service provider and any end user using the ERT service provider's services. The ERT service provider shall indemnify any end user that uses the ERT service provider's services of and from any loss or damage occasioned by the failure of the ERT service provider to so comply, including but not limited to the complete and timely submission to the county treasurer of the title and registration fees required for a given transaction. The bond shall be filed with the department before the ERT service provider may begin or offer services as an ERT service provider. The aggregate liability of the surety shall not exceed the amount of the bond.

*h.* The ERT service provider shall provide accounting reports of all fees received and transferred to each respective county treasurer, in a manner determined by the department.

*i.* The ERT service provider shall submit to audits by the department and the state auditor, which shall be at least yearly but may be more frequently if determined necessary by the department or the state auditor.

*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 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

## TRANSPORTATION DEPARTMENT[761](cont'd)

of an original document as part of an electronic application shall retain the original document for a period of three years. 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.

*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 to submit the application on the person's behalf. The power of attorney shall be retained at the motor vehicle dealer's principal place of business for a period of three years 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 shall be submitted electronically as a scanned document with the electronic application.

*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, 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.

*m.* The ERT service provider shall hold and protect all personal information as required by Iowa Code section 321.11 and the federal Driver's Privacy Protection Act, 18 U.S.C. § 2721 et seq. (the DPPA), shall only use or release such personal information for purposes necessary to perform services as an ERT service provider, and shall release such personal information for no other purposes or use except as required to comply with legal or administrative matters as permitted under the DPPA. The ERT service provider shall immediately advise the department of any suspected or actual unauthorized release of personal information or highly restricted personal information and shall notify the entity and individual whose personal information or highly restricted personal information was released in an unauthorized manner.

ITEM 6. 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 ~~423-7A~~ 322.19A.

ITEM 7. Amend subrule 400.4(10) as follows:

**400.4(10)** *Supporting document retained by county treasurer.* All supporting documents, except those submitted pursuant to subrule 400.3(16), shall be retained by the county treasurer.

**ARC 3304C****TRANSPORTATION DEPARTMENT[761]****Notice of Intended Action**

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

Pursuant to the authority of Iowa Code sections 307.12, 307A.2, 321L.2 and 321L.8, the Iowa Department of Transportation hereby gives Notice of Intended Action to amend Chapter 401, “Special Registration Plates,” and to rescind Chapter 411, “Persons With Disabilities Parking Permits,” Iowa Administrative Code, and adopt a new Chapter 411 with the same title.

Because there have been two significant statutory changes that affect the administration of permanent (nonexpiring) parking placards for persons with disabilities, the Department proposes rescinding existing Chapter 411 and adopting a new Chapter 411. Establishing a new chapter makes it easier for the Department to adopt a rule structure that aligns with the new statutory requirements and the procedures the Department has adopted to implement them and makes it easier for users to follow and understand.

The first statutory change was made by 2016 Iowa Acts, chapter 1067, which amended Iowa Code section 321L.2 to end the issuance of nonexpiring parking placards for persons with permanent disabilities. Under amended Iowa Code section 321L.2, placards issued on or after January 1, 2017, to persons with permanent disabilities may no longer be nonexpiring placards that have no expiration date, but instead must be “standard” placards that are valid only for a period of five years and that may be reissued every five years upon proof of continued medical need. Because the effective date provisions of this Act specified that the Act does not affect the validity of nonexpiring persons with disabilities placards issued before January 1, 2017, a nonexpiring placard issued before January 1, 2017, will remain valid unless and until it is either lost, damaged, stolen, revoked, relinquished, or otherwise canceled or terminated pursuant to Iowa Code chapter 321L and 761—Chapter 411.

2016 Iowa Acts, chapter 1067, retained the requirement that a parking placard be displayed only when the vehicle is parked in a persons with disabilities parking space, but added the requirement that the placard be displayed in a manner that allows the entire placard to be visible through the vehicle’s windshield.

The second statutory change was made by 2016 Iowa Acts, chapter 1111, which amended Iowa Code section 321L.2 to add a provision specific to veterans. Before this legislation, under Iowa Code section 321L.2, a person applying for a persons with disabilities parking permit could demonstrate eligibility for the permit only by including a statement from a physician licensed under Iowa Code chapter 148 or 149, a physician assistant licensed under Iowa Code chapter 148C, an advanced registered nurse practitioner licensed under Iowa Code chapter 152, or a chiropractor licensed under Iowa Code chapter 151, or a physician, physician assistant, nurse practitioner, or chiropractor licensed to practice in a contiguous state, written on the physician’s, physician assistant’s, nurse practitioner’s, or chiropractor’s stationery, that stated the nature of the person’s disability and such additional information as required by rules adopted by the Department under Iowa Code section 321L.8. The legislation retained this requirement and retained the existing definition of an eligible disability, but added another option for persons who are veterans and have a veterans disability rating from the U.S. Department of Veterans Affairs. Under the legislation, the Department may accept a certification of disability from the U.S. Department of Veterans Affairs in lieu of a statement from a physician, physician assistant, advanced registered nurse practitioner, or chiropractor. The legislation specified that the Department may adopt rules pursuant to Iowa Code chapter 17A detailing the requirements for an acceptable certification of disability from the U.S. Department of Veterans Affairs. Because the U.S. Department of Veterans Affairs has advised that its disability ratings are issued for vocational disability and cannot be correlated to the definition of “person with a disability” set forth in Iowa Code section 321L.1(8), which covers only disabilities that result in an impairment of mobility, the Department’s proposed rules provide that a veteran that submits a certification of disability from the U.S. Department of Veterans Affairs in lieu of a statement from

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a physician, physician assistant, advanced registered nurse practitioner, or chiropractor must include a self-certification that the veteran is a person with a disability as defined in Iowa Code section 321L.1(8).

The proposed new Chapter 411 aligns with these statutory changes and the statutory requirements that were retained, as well as with Department procedures adopted to implement the statutory requirements. In addition, the Department proposes changes, which are incorporated in new Chapter 411, to eliminate unnecessary or outdated language; adopt and use consistent terms and phrases throughout the chapter; and generally make the language used throughout the chapter clearer and easier to understand and follow.

The proposed changes that are being incorporated into new Chapter 411 include the following:

- Rule 761—411.1(321L) reflects updates to the name of the responsible office and provides the physical and electronic locations at which applications may be obtained.

- Rule 761—411.2(321L) defines terms used throughout the chapter and incorporates the definitions included in Iowa Code section 321L.1.

- Rule 761—411.3(321L) addresses the application process, including where applications may be obtained and submitted, the required content of applications, the additional information needed for applications that are submitted by organizations, and what procedural requirements must be followed if a person chooses to submit a certification of disability from the U.S. Department of Veterans Affairs.

- Rule 761—411.4(321L) addresses the requirements that apply to removable windshield placards and specifically addresses the validity of nonexpiring placards issued before January 1, 2017; the issuance and period of validity for standard placards issued on or after January 1, 2017, to persons with a permanent disability and the conditions and process for renewing standard placards; the issuance and period of validity for temporary placards issued to persons with a temporary disability and the conditions and process for renewing temporary placards; and the issuance and period of validity for organizational placards and the conditions and process for renewing organizational placards; as well as the manner in which placards must be displayed, all in accordance with Iowa Code section 321L.2.

- Rule 761—411.5(321L) explains the eligibility, validity, and display requirements for a persons with disabilities special registration plate parking sticker, including who is eligible for the sticker and which circumstances must be met in order to qualify for the sticker, and clarifies the period of validity and the manner in which the sticker must be displayed.

- Rule 761—411.6(321L) maintains a reference to 761—Chapter 401 for information on persons with disabilities special registration plates.

- Rule 761—411.7(321L) reflects revisions relating to “return of persons with disabilities parking permit” to better describe the process for returning a placard to the Department and to separate this process from the revocation of a parking permit, which is described in rule 761—411.8(321L).

- Rule 761—411.8(321L) includes clarifying language regarding the revocation of a persons with disabilities parking permit to better describe the departmental practice for revoking a parking permit and to explain the process and timelines pertaining to the revocation of a persons with disabilities parking permit. Specifically, this rule describes the process for the revocation notice, effective date, service of notice, and the departmental verification of notice.

- Rule 761—411.9(321L) includes clarifying language regarding the appeal process to better describe the existing practice relating to appeal options and to describe the appeal process as it pertains to a persons with disabilities parking permit. The proposed amendment addresses the informal settlement, contested case and notice requirements that are defined in 761—Chapter 13.

Because the Department proposes the above changes to Chapter 411, the Department also proposes conforming amendments to rule 761—401.20(321). This rule concerns persons with disabilities plates. The proposed amendments to the rule comply with Iowa Code section 321L.2 and the requirements in 761—Chapter 411.

These rules do not provide for 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.

Any person or agency may submit written comments concerning these proposed amendments or may submit a written request to make an oral presentation. The comments or request shall:

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1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.
3. Indicate the general content of a requested oral presentation.
4. Be addressed to Tracy George, Rules Administrator, Iowa Department of Transportation, Strategic Communications and Policy, 800 Lincoln Way, Ames, Iowa 50010; e-mail: [tracy.george@iowadot.us](mailto:tracy.george@iowadot.us).
5. Be received by the Department's rules administrator no later than October 3, 2017.

A meeting to hear requested oral presentations is scheduled for Thursday, October 5, 2017, at 9 a.m. at the Iowa Department of Transportation's Motor Vehicle Division offices located at 6310 SE Convenience Boulevard, Ankeny, Iowa.

The meeting will be canceled without further notice if no oral presentation is requested.

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

These amendments are intended to implement Iowa Code sections 321.34, 321L.1 to 321L.4 and 321L.8.

The following amendments are proposed.

ITEM 1. Amend rule 761—401.20(321) as follows:

**761—401.20(321) Persons with disabilities plates.**

**401.20(1) Application.** Application for special plates with a persons with disabilities processed emblem shall be submitted to the county treasurer on a form prescribed by the department.

*a.* The application shall ~~include a signed statement written on the physician's, chiropractor's, physician assistant's or advanced registered nurse practitioner's letterhead. The statement comply with the requirements of 761—subrule 411.3(2) and shall certify that the owner or the owner's child is a person with a disability, as defined in Iowa Code section 321L.1, and that the disability is permanent.~~

*b.* No change.

*e.* ~~A new application form is not required when an individual's application for issuance of persons with disabilities plates, disabled veteran plates, nonexpiring removable windshield placards or parking stickers has previously been approved.~~

*d. c.* ~~In lieu of submitting the signed medical statement of disability required under paragraph 401.20(1) "a," in 761—subrule 411.3(2), an individual who is eligible for disabled veteran plates but has not been issued them may submit certification from the U.S. Department of Veterans Affairs that the United States government has provided or assisted in providing a motor vehicle to the individual.~~

**401.20(2)** No change.

**401.20(3) Renewal.** ~~The owner shall, at renewal time, provide a self-certification stating that the owner or the owner's child is still a person with a disability and, if the person with a disability is the owner's child, that the child still resides with the owner~~ submit a persons with disabilities parking permit application pursuant to rule 761—411.3(321L) that includes all required documentation and shows the owner or the owner's child remains permanently disabled and has a continuing need for the plates.

ITEM 2. Rescind 761—Chapter 411 and adopt the following **new** chapter in lieu thereof:

CHAPTER 411  
PERSONS WITH DISABILITIES PARKING PERMITS

**761—411.1(321L) Information and applications.** Information and applications regarding persons with disabilities parking permits are available, electronically or otherwise, by mail from the Office of Vehicle and Motor Carrier Services, Iowa Department of Transportation, P.O. Box 9278, Des Moines, Iowa 50306-9278, in person at 6310 SE Convenience Blvd., Ankeny, Iowa, by telephone at (515)237-3110, by facsimile at (515)237-3056, or on the department's Web site at [www.iowadot.gov](http://www.iowadot.gov).

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**761—411.2(321L) Definitions.**

**411.2(1)** The definitions in Iowa Code section 321L.1 are hereby made part of and fully incorporated in this chapter.

**411.2(2)** As used in this chapter, unless the context otherwise requires:

*“Health care provider”* means a physician licensed under Iowa Code chapter 148 or 149, a physician assistant licensed under Iowa Code chapter 148C, an advanced registered nurse practitioner licensed under Iowa Code chapter 152, or a chiropractor licensed under Iowa Code chapter 151, or a physician, physician assistant, nurse practitioner, or chiropractor licensed to practice in a contiguous state as set forth in Iowa Code section 321L.2(1).

*“Nonexpiring removable windshield placard”* means a removable windshield placard issued on or before December 31, 2016, to a person with a permanent disability.

*“Organization”* means an applicant that is a corporation, partnership, sole proprietorship, business trust, estate, trust, limited liability company, association, joint venture, government, governmental subdivision, agency, instrumentality, public corporation, or any other legal or commercial entity lawfully doing business in the state of Iowa that has a program for transporting persons with disabilities or elderly persons.

*“Permanent disability”* means an applicant is a person with a disability as defined in Iowa Code section 321L.1(8) and the disability will continue indefinitely without resolution and is reasonably expected to last the applicant’s lifetime.

*“Standard removable windshield placard”* means a removable windshield placard issued on or after January 1, 2017, to a person with a permanent disability.

*“Statement of disability”* means a communication, electronic or otherwise, originating from the applicant’s health care provider, which attests that the applicant is a person with a disability as defined in Iowa Code section 321L.1(8). The statement must state the nature of the applicant’s disability and indicate whether the applicant’s disability is “temporary” or “permanent.” If the disability is temporary, the statement shall state the period of time during which the applicant is expected to be disabled and the period of time for which the permit should be issued, not to exceed six months. The statement must reasonably identify, on or within its contents, that it originated from the applicant’s health care provider.

*“Temporary disability”* means an applicant is a person with a disability as defined in Iowa Code section 321L.1(8) and the disability is not permanent and is reasonably expected to last for only a limited period of time.

*“Temporary removable windshield placard”* means a removable windshield placard issued to a person with a temporary disability.

**761—411.3(321L) Application for persons with disabilities parking permit.**

**411.3(1) General.** An applicant shall submit a completed application for a persons with disabilities parking permit, including required supporting documentation, pursuant to this chapter and Iowa Code section 321L.2.

*a.* An applicant may request one of the following persons with disabilities parking permits by completing Form 411055:

- (1) Temporary removable windshield placard.
- (2) Standard removable windshield placard.
- (3) Persons with disabilities special registration plate parking sticker.
- (4) Persons with disabilities special registration plates. An applicant seeking persons with disabilities special registration plates must also submit an application as described in rule 761—401.20(321).

*b.* An organization seeking a persons with disabilities removable windshield placard shall complete Form 411355. An application made by an organization does not have to include a statement of disability.

**411.3(2) Application requirements.** An application shall include the applicant’s full legal name, address, date of birth, social security number or Iowa driver’s license number or Iowa nonoperator’s identification number, and a statement of disability from the applicant’s health care provider. However,

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if the application is made on behalf of a person who is less than one year old, the application does not have to include a social security number, Iowa driver's license number, or nonoperator's identification card number for the person. In lieu of a statement of disability from a health care provider, an applicant who is certified by the U.S. Department of Veterans Affairs as having a permanent disability may submit both of the following with an otherwise completed persons with disabilities parking permit application:

*a.* Proof that the applicant is the subject of a certification of disability from the U.S. Department of Veterans Affairs.

*b.* A self-certification, verified under penalty of perjury, that states the nature of the applicant's disability and attests that the disability certified by the U.S. Department of Veterans Affairs is a permanent disability that impairs the applicant's mobility to the extent defined in Iowa Code section 321L.1(8). The self-certification must be attested to on the persons with disabilities parking permit application.

**411.3(3)** *Availability of application.* Applications may be obtained from any of the following:

*a.* The department's Web site as set forth in rule 761—411.1(321L).

*b.* The department's office of vehicle and motor carrier services.

*c.* A driver's license station.

*d.* A county treasurer's office.

*e.* The Office of Persons with Disabilities, Iowa Department of Human Rights, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319.

**411.3(4)** *Application submission.* Completed applications shall be submitted, electronically or otherwise, to any of the following:

*a.* The department's office of vehicle and motor carrier services.

*b.* A driver's license station.

*c.* A county treasurer's office.

**411.3(5)** *Application submitted by an organization.* An application submitted by an organization shall include the name, mailing address, telephone number, signature of its authorized representative, and if required to obtain one, the organization's federal employer identification number or federal tax identification number.

**761—411.4(321L) Removable windshield placards.**

**411.4(1)** *Nonexpiring removable windshield placards.*

*a. Period of validity.* A nonexpiring removable windshield placard issued on or before December 31, 2016, shall remain valid until the occurrence of any condition set forth in Iowa Code section 321L.3(1), the procedure set forth in rule 761—411.8(321L), and as otherwise specified by statute or rule.

*b. Replacement.* A lost, stolen, or damaged nonexpiring removable windshield placard shall be replaced with a standard removable windshield placard.

**411.4(2)** *Standard removable windshield placards.* A standard removable windshield placard may be issued only to a person with a permanent disability. A standard removable windshield placard shall not be issued to a person with a temporary disability or to an organization.

*a. Period of validity.* A standard removable windshield placard shall be valid for five years, and shall expire on the last day of the last month, five years from the month from which it was issued.

*b. Renewal.*

(1) *Submission of application.* A person who holds a valid standard removable windshield placard may renew the placard by submitting a persons with disabilities parking permit application pursuant to rule 761—411.3(321L) that includes all required documentation and shows the applicant remains permanently disabled and has a continuing need for the placard.

(2) *Timing of renewal application.* An application to renew a standard removable windshield placard may be submitted up to 30 days before the current placard's expiration. The renewal or replacement placard shall be valid for five years, and shall expire on the last day of the last month, five years from the month from which it was issued.

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**411.4(3) Temporary removable windshield placards.** A temporary removable windshield placard may be issued to the applicant if the application demonstrates the applicant has a temporary disability. A temporary removable windshield placard shall not be issued to an organization.

*a. Period of validity.* A temporary removable windshield placard shall be valid for the period of time during which the applicant is expected to be disabled and the period of time for which the permit should be issued as shown by the statement of disability, but not to exceed six months.

*b. Renewal.*

(1) Submission of application. A person who holds a valid temporary removable windshield placard may renew the placard by submitting a persons with disabilities parking permit application pursuant to rule 761—411.3(321L) that includes all required documentation and shows the applicant remains temporarily disabled.

(2) Timing of renewal application. An application to renew a temporary removable windshield placard may be submitted up to 30 days before the current placard's expiration. The renewal placard shall be valid for the period of time during which the applicant is expected to be disabled and the period of time for which the permit should be issued as shown by the statement of disability, but not to exceed six months.

**411.4(4) Removable windshield placards for an organization.** An organization may be issued a removable windshield placard. A removable windshield placard issued to an organization shall be valid for four years and shall expire on the last day of the last month, four years from the month from which it was issued. The placard shall bear the name of the organization and the signature of its authorized representative. The organization may renew a placard issued to it by submitting a persons with disabilities parking permit application pursuant to rule 761—411.3(321L) provided the organization continues to provide the service for which the placard was issued. If at any time the organization ceases providing the service for which the placard was issued, the organization shall immediately surrender the placard to the department.

**411.4(5) Display of placards.** A removable windshield placard shall only be displayed when the vehicle is parked in a persons with disabilities parking space. The removable windshield placard shall be displayed in a manner that allows the entire placard to be visible through the vehicle's windshield.

**761—411.5(321L) Persons with disabilities special registration plate parking stickers.**

**411.5(1) Eligibility.** A persons with disabilities special registration plate parking sticker may be issued to a person with a permanent disability who owns a motor vehicle for which the person has been issued disabled veteran plates under Iowa Code section 321.105 or registration plates under Iowa Code section 321.34. A special registration plate parking sticker shall not be issued to a person with a temporary disability or to an organization.

**411.5(2) Validity.** The special registration plate parking sticker shall remain valid for such period of time that the registration for the vehicle remains valid.

**411.5(3) Display.** The special registration plate parking sticker shall be affixed to the lower right corner of the rear registration plate, as required by rule 761—400.53(321).

**761—411.6(321L) Persons with disabilities special registration plates.** See 761—Chapter 401.

**761—411.7(321L) Return of persons with disabilities parking permit.** A persons with disabilities parking permit issued pursuant to this chapter and Iowa Code section 321L.2 shall be returned to the department within ten days of an occurrence of any of the events set forth in Iowa Code section 321L.3(1) and in the manner prescribed in Iowa Code section 321L.3(3).

**761—411.8(321L) Revocation of a persons with disabilities parking permit.**

**411.8(1) Notice of revocation.** Notice of revocation shall be in writing and shall specify the basis of the department's determination.

**411.8(2) Effective date of permit revocation.** Unless otherwise specified by statute or rule, a permit shall be considered revoked 30 days after the department's notice of revocation is served.



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**411.8(3) Service of notice.** The department shall send a notice of revocation by first-class mail to the mailing address as shown on the pertinent application for a persons with disabilities parking permit.

**411.8(4) Departmental verification of service of notice.** The department may prepare an affidavit of mailing verifying the fact that a notice was mailed by first-class mail. To verify the mailing of a notice, the department may use its records in conjunction with U.S. Postal Service records available to the department. The department's affidavit of mailing may be attested to and certified in accordance with Iowa Code section 622.1.

**761—411.9(321L) Appeal.**

**411.9(1)** A person or organization whose persons with disabilities parking permit has been revoked may request an informal settlement or a contested case proceeding as provided in 761—Chapter 13 to contest said action.

**411.9(2)** The request shall be submitted in writing, to the director of the office of vehicle and motor carrier services, at the address listed in rule 761—411.1(321L), and may be submitted electronically by facsimile, e-mail or other means prescribed by the department. To be timely, the request must be submitted within ten days of the receipt of notice of revocation.

**411.9(3)** When the department receives a properly submitted, timely request for an informal settlement or contested case proceeding or an appeal of a presiding officer's proposed decision regarding a revocation, the department shall stay the revocation pending resolution of the informal resolution, contested case, or appeal.

These rules are intended to implement Iowa Code sections 321L.1 to 321L.4 and 321L.8.

**ARC 3307C****TRANSPORTATION DEPARTMENT[761]****Notice of Intended Action**

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

Pursuant to the authority of Iowa Code sections 307.12, 307A.2, 321.182, 321.189 and 321.190, the Iowa Department of Transportation hereby gives Notice of Intended Action to amend Chapter 601, "Application for License," Chapter 605, "License Issuance," and Chapter 630, "Nonoperator's Identification," Iowa Administrative Code.

The proposed amendments form a comprehensive update of the Department's rules affecting or involving the initial application for a driver's license or nonoperator's identification card to better implement and align with existing legal authority and Department practice and to eliminate outdated or irrelevant requirements or options and accommodate modern, electronic procedures for authenticating official documents and exchanging information. In addition, the proposed amendments relocate requirements regarding the application for duplicate licenses from Chapter 601 to Chapter 605, which specifically addresses the issuance of duplicate licenses in rule 761—605.11(321); clarify the manner in which the Department will determine the eligibility for licensing a person who has moved to Iowa but is subject to a license or driving sanction in another state; and clarify the process for documenting a change in sex designation to ensure that a formal change in sex designation is permitted only under standards consistent with standards set forth in the Iowa Code and maintained by the Iowa Department of Public Health, applied equally and consistently to all Iowa residents who request a change in the sex designation shown on a driver's license or nonoperator's identification card.

The following explains each item in the rule making:

- Item 1 amends subrule 601.1(3) to better and more consistently implement Iowa Code chapter 321C, Interstate Drivers License Compacts. Iowa Code chapter 321C generally promotes safety ensuring that drivers will face consistent consequences for driving infractions, regardless of the state in which the

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infraction occurs. The compact requires that a conviction a driver receives in another state be reported to the driver's home record and be given the same effect as if the conviction occurred in the driver's home state and requires the Department to determine at the time of application for a new license whether the applicant has ever held or currently holds a license issued by another state, and to refuse licensing if the applicant held a license issued by another state but the license has been suspended or revoked because of a violation and the suspension or revocation has not terminated. In this manner the compact ensures that unsafe drivers do not go undetected by accumulating convictions in other states or skipping from state to state. However, the compact also attempts to ensure the safe mobility of drivers that have legitimately moved from one state to another and to allow the new state to give effect to its driving and licensing laws by allowing the licensing authority to grant a new license if it has been more than one year from the date the license was revoked and the licensing authority has determined it is otherwise safe to grant the applicant a driving privilege.

The Department's past practice did not fully realize the intent of the compact in two areas. First, the Department did not have a consistent method for determining whether a driver who had moved to Iowa from another state while under revocation in another state was safe to drive, and simply withheld licensing privileges so long as the driver was revoked in another state. This often left drivers who would otherwise be eligible if the offense had occurred in Iowa in limbo and without driving privileges until the revocation ended in the other state. Second, the Department interpreted this provision as only applying to a person who actually held a license in another state; if the person was subject to a revocation but never had a driving privilege, the Department refused to consider the application of the compact, which likewise left the person in limbo and without driving privileges until the out-of-state revocation ended. The proposed amendments remedy these issues by:

- o Clarifying that the Department interprets the compact as applying to persons who have held a license in another state as well as to persons who have never held a license, which ensures that the intent of the compact is consistently met for similarly situated persons.

- o Confirming that if the application shows the person's license or driving privilege was revoked by another state and at least one year has passed since the revocation was imposed, the applicant may be eligible for an Iowa license provided the Department determines it would be safe to grant the application in Iowa. To consistently make that determination, the Department will consider whether the applicant would be eligible for licensing if the violation had occurred in Iowa, will apply the same period of revocation as though the offense had occurred in Iowa, and will grant licensing if the Iowa period of revocation has expired, subject to the same limitations and restrictions that would be imposed on an Iowa driver (other than imposition of a civil penalty), and contingent upon the driver demonstrating adequate knowledge and skill to operate a motor vehicle safely and contingent further on the driver otherwise being physically and mentally capable of safely operating a motor vehicle. This part of the amendment better aligns licensing policy with the compact and better promotes safe mobility not only by ensuring out-of-state revocations are recognized and given effect but also by allowing a return to driving on the same terms and conditions that would apply to any Iowa license holder. The proposed amendment permits the Department to make further investigation or require further information if necessary.

- Item 2 clarifies that a participant in the "Safe at Home" program administered by the Iowa Secretary of State, which is an address confidentiality program for victims of domestic violence, sexual assault, trafficking, stalking, or violent crimes, may provide the participant's address designated by the Secretary of State when applying for a driver's license and aligns the Department's rules regarding proof of address to the Department's practice in implementing this program.

- Items 3 and 8 update implementation sentences within rules 761—601.1(321) and 761—605.11(321) to add Iowa Code section 321.13, which requires the Department to examine and determine the genuineness, regularity, and legality of every application made to the Department and which authorizes the Department to investigate or require additional information as needed to do so and to reject any application if the Department is not satisfied with the genuineness, regularity, or legality of the application or the truth of any statement made within the application, or for any other reason, when authorized by law.

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- Items 4 and 11 add language to acknowledge an existing process under which an individual who has a license or nonoperator identification card from a foreign jurisdiction may not be required to surrender the license or card if Iowa has a letter of understanding with the foreign jurisdiction that allows the individual to retain the license or nonoperator identification card.
- Item 5 clarifies the proof required when a person is applying for a new driver's license. Specifically, the following amendments are proposed:
  - Paragraphs 601.5(1)“b,” 601.5(5)“a” and 601.5(5)“b” are amended to acknowledge that many certified documents may no longer contain a raised seal but are still acceptable if the documents bear a certification of authenticity from the issuing agency or entity. These amendments allow the Department to accept more electronically issued documents in the future and avoid inconveniencing applicants who may not have access to a document that contains a raised seal.
  - Paragraph 601.5(1)“b” and subrules 601.5(6) and 601.5(7), regarding proof of identity and date of birth, are amended to encompass situations where an issuing agency issues an entirely new certificate of birth rather than an amended certificate of birth. This amendment ensures a properly issued certificate of birth will be accepted to document a change shown in the certificate regardless of whether the certificate is marked as amended or is issued as a new document, which will avoid inconvenience to applicants.
  - Subrule 601.5(2) is amended to include Internal Revenue Service Forms 1095-A, Health Insurance Marketplace Statement; 1095-B, Health Coverage; and 1095-C, Employer-Provided Health Insurance Officer and Coverage; to the list of documents that may be used to prove an applicant's social security number. This amendment will increase the documents an applicant may use to prove the applicant's social security number and decrease the chance that an applicant will not have access to an acceptable form of proof, which will also avoid inconvenience to applicants.
  - Subrule 601.5(5) is amended to eliminate an outdated requirement to submit an affidavit to prove a name change. Under the proposed amendments, an applicant who has changed the applicant's name need only provide the legal documents showing the name change to prove the change of name, without submitting a separate affidavit, and the applicant's request for the name change is captured electronically. This will avoid inconvenience to the applicant associated with completing a paper form and seeking a notary to attest to the application. The proposed amendment also provides that the documentation of a name change must include the applicant's legal name, rather than the applicant's “full” legal name, to encompass court orders which may include an applicant's middle initial rather than the applicant's full legal name. This ensures the Department's ability to accept all validly issued court orders for name change and avoids inconvenience to an applicant who might otherwise have to seek an amended order to include the applicant's full middle name where it has not changed.
  - Subrule 601.5(6) is amended to remove the provision allowing for a court-ordered change of date of birth. There is no known procedure for obtaining a court-ordered change of date of birth.
  - Subrule 601.5(7) is amended to ensure that the procedure for changing the sex designation on a person's driver's license remains consistent with the requirements of Iowa law and is applied on equal terms to all Iowa driver's license holders, whether born in Iowa or outside of Iowa. Iowa Code section 321.182 requires a driver's license applicant to provide the applicant's sex at the time of application, and Iowa Code section 321.189 requires the Department to include the applicant's sex on any driver's license issued. Policy on change of sex designation in Iowa is guided by Iowa Code section 144.23(3), which allows the state registrar to establish a new birth certificate for a person born in Iowa that shows a new sex designation when the person submits a notarized affidavit from a licensed physician and surgeon or osteopathic physician and surgeon stating that by reason of surgery or other treatment, the sex designation of the person has been changed. The existing subrule 601.5(7) recognizes this process by allowing a license holder to change the sex designation that appears on the license by presenting an amended birth certificate, and also allows a license holder to change the sex designation that appears on the license by presenting a court-order change of sex designation. However, the existing subrule has produced unequal and inconsistent results for two reasons. First, the option to present an amended birth certificate has excluded similarly situated persons who were not born in Iowa, as not all states have a procedure for amending or changing a birth certificate to reflect a new

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sex designation. Second, the option to present a court order for change of sex designation, which was intended only to accommodate the possibility that other states might allow a change of sex designation by court order, has been mistakenly construed by some Iowa judges as creating a cause of action in Iowa for a court-ordered change of sex designation that does not otherwise exist in Iowa law, resulting in court orders for change of sex designation that lack proper legal basis or consistent standard. To correct these deficiencies, the proposed amendment to subrule 601.5(7) eliminates the option to prove change of sex designation by court order and inserts a proof structure that treats license holders born either in or outside of Iowa equally and holds them to the same standard that the Iowa Department of Public Health follows for individuals seeking to amend or acquire a new birth certificate that reflects a change of sex designation. The proposed amendment clarifies that a license holder born in Iowa who wishes to change the sex designation on the license must present a new Iowa birth certificate that changes the sex designation, which the state registrar issues according to the standards set forth in Iowa Code section 144.23(3) and Iowa Department of Public Health's rule 641—99.20(144). A person born outside of Iowa must either present a properly amended or new identity document other than an Iowa birth certificate (a birth certificate from the birth state, Consular Report of Birth Abroad, or Certificate of Citizenship) that documents the sex designation change, or may present a notarized affidavit from a licensed physician and surgeon or osteopathic physician and surgeon stating that by reason of surgery or other treatment, the sex designation has been changed. The standards and requirements adopted for proof of change of sex designation by presentation of a notarized affidavit are identical to those set forth in Iowa Department of Public Health's rule 641—99.20(144), which ensures that similarly situated persons have equal opportunity to change the sex designation on their licenses, regardless of whether they were born in or outside of Iowa, but only within the standards for change of sex designation set forth in Iowa Code section 144.23(3). To ensure accurate and consistent application, the proposed amendment to the subrule allows the Department to make further inquiry or investigation when necessary, requires the application for change and all documentation to be submitted centrally to Driver and Identification Services, and confirms that the change of sex designation does not effect a name change unless the license holder verifies a legal name change following the procedures in subrule 601.5(5).

- Item 6 updates rule 761—601.6(321), previously specific to parental consent, to accurately reflect that either a parent, guardian or custodian of a child may provide consent to issue a driver's license or permit to a minor. This change properly aligns the content of this rule with the content of Iowa Code section 321.184 and with the Department's practice. The proposed amendment also removes the requirement that the form documenting the parent's consent be notarized and instead provides that the consent shall be verified by certification under penalty of perjury. Iowa Code section 321.184 does not require notarization, and removing this requirement avoids inconvenience to applicants associated with seeking a notary to complete the form and allows this document to be executed electronically in the future. Item 9 updates subrule 630.2(2) to make a coordinating amendment to accurately reflect that a parent, guardian or custodian of a child may provide consent to issue a nonoperator's identification card to a minor.

- Items 7 and 12 simplify the requirements for obtaining a duplicate (replacement) license or nonoperator's identification card for one that is lost, stolen, or destroyed. The Department's rules previously required an applicant who needed a duplicate license or card to provide the same documents to prove legal name, date of birth and social security number that an applicant applying for a new license or card must provide. Requiring the applicant to again provide these documents is not necessary, however, because the Department already has this documentation on file for the applicant and can verify legal name, date of birth and social security number, based on information provided by the applicant, and can additionally verify the applicant's identity based on the applicant's photos on file and through the use of facial recognition technology. Accordingly, the amendments to Items 7 and 12 eliminate the requirement to re-present these proofs when an applicant requests a duplicate license or card. The amendments confirm that the Department is allowed to conduct further investigation if necessary to verify the applicant's identity and provide that the duplicate license or card shall not be issued if the applicant's identity is questionable, cannot be determined or otherwise does not match the identity of record. The updated language also provides that if the name, date of birth or social security number has

## TRANSPORTATION DEPARTMENT[761](cont'd)

changed since the previous license or card was issued, the applicant shall provide proof of the change as required by subrule 605.11(2).

- Item 10 strikes the outdated requirement that the county number indicating the county of residence appear on the nonoperator's identification card.

These rules do not provide for 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.

Any person or agency may submit written comments concerning these proposed amendments or may submit a written request to make an oral presentation. The comments or request shall:

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.

2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.

3. Indicate the general content of a requested oral presentation.

4. Be addressed to Tracy George, Rules Administrator, Iowa Department of Transportation, Strategic Communications and Policy, 800 Lincoln Way, Ames, Iowa 50010; e-mail: [tracy.george@iowadot.us](mailto:tracy.george@iowadot.us).

5. Be received by the Department's rules administrator no later than October 3, 2017.

A meeting to hear requested oral presentations is scheduled for Thursday, October 5, 2017, at 2:30 p.m. at the Iowa Department of Transportation's Motor Vehicle Division offices located at 6310 SE Convenience Boulevard, Ankeny, Iowa.

The meeting will be canceled without further notice if no oral presentation is requested.

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

These amendments are intended to implement Iowa Code sections 321.13, 321.182, 321.184, 321.189, 321.190, 321.195 and 321C.1.

The following amendments are proposed.

ITEM 1. Amend subrule 601.1(3) as follows:

**601.1(3) *Out-of-state verification.*** Upon application for a driver's license, the department shall ascertain whether the applicant has ever held, or is the holder of, a driver's license issued by any other state.

*a.* The department shall not issue a driver's license to the applicant if:

- (1) The applicant has held a driver's license issued by any other state, but the driver's license has been suspended by reason, in whole or part, of a violation and if such suspension period has not terminated.

- (2) The applicant has held a driver's license issued by any other state, but the driver's license has been revoked by reason, in whole or part, of a violation and if such revocation has not terminated, except that after the expiration of one year from the date the license was revoked, the applicant may make application for a new license if permitted by law. The department may refuse to issue a license to any such applicant if, after investigation, the department determines that it will not be safe to grant such applicant the privilege of driving a motor vehicle on the highways.

- (3) The applicant is the holder of a driver's license issued by another state and currently in force, unless the applicant surrenders such license.

*b.* If the applicant is subject to subparagraph 601.1(3) "a"(2) or has committed an offense or acted in a manner in another state which in Iowa would be grounds for revocation and it has been more than one year from the date the license or driving privilege was revoked, the department may issue the applicant a driver's license only upon such terms and conditions and subject to such restrictions or limitations as if the violation had been committed and the revocation imposed in Iowa. The department shall delay licensing or restrict licensing for such period of time that the applicant would be ineligible for a driving privilege or subject to a restricted driving privilege if the violation had been committed and the revocation imposed in Iowa.

## TRANSPORTATION DEPARTMENT[761](cont'd)

(1) For purposes of determining whether it is safe to grant the applicant a driving privilege, an applicant may be determined to be safe only if the department determines all of the following:

1. The applicant has satisfied the same requirements for the grant of a driving privilege if the violation had been committed and the revocation imposed in Iowa.

2. The applicant is otherwise physically and mentally capable of safely operating a motor vehicle.

(2) However, the department shall not assess a civil penalty to the applicant as a condition of licensing under this subrule.

(3) Pursuant to Iowa Code section 321.13, the department may make further investigation or require further information necessary to determine whether it is safe to grant the applicant a driving privilege.

c. If a person the applicant is licensed in another licensing jurisdiction state but does not have a current out-of-state license to surrender, the department may require an official letter from the out-of-state licensing agency before issuing a license. The official letter must verify verification of the person's applicant's driving record from the state of record, which may be accomplished electronically where possible, to assist the department in determining whether it is safe to grant the person applicant a license.

ITEM 2. Amend subrule 601.1(6) as follows:

**601.1(6) Address.** The applicant shall provide the applicant's current residential address and the applicant's current mailing address, if different from the applicant's current residential address. The applicant shall not provide as a mailing address an address for which a forwarding order with the United States Postal Service is in place. Notwithstanding anything in subrule 601.1(6), an applicant who is a participant in the "safe at home" address confidentiality program administered by the Iowa secretary of state may submit a designated address issued to the applicant by the Iowa secretary of state as the applicant's residential and mailing address.

ITEM 3. Amend rule 761—601.1(321), implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.13, 321.182, 321.196 and 321C.1, Article V, the REAL ID Act of 2005 (49 U.S.C. Section 30301 note), and 6 CFR Part 37.

ITEM 4. Amend rule 761—601.2(321) as follows:

**761—601.2(321) Surrender of license and nonoperator's identification card.** An applicant for a driver's license shall surrender all other driver's licenses and nonoperator's identification cards. This includes those issued by jurisdictions a state other than Iowa or a foreign jurisdiction, unless otherwise provided in a letter of understanding or other written memorialization of reciprocity or understanding. An applicant who renews a driver's license electronically pursuant to 761—subrule 605.25(7) shall destroy the previous driver's license upon receipt of the renewed driver's license.

This rule is intended to implement Iowa Code section 321.182.

ITEM 5. Amend rule 761—601.5(321) as follows:

**761—601.5(321) Proofs submitted with application.** A person who applies for a new Iowa driver's license or nonoperator's identification card or a duplicate license or card to replace one that is lost, stolen or destroyed, including a person who currently holds a license or card issued by another state or foreign jurisdiction, shall submit proof of identity, date of birth, social security number, Iowa residency and current residential address, and lawful status in the United States.

**601.5(1) Verification of identity and date of birth.** To establish identity and date of birth, an applicant must submit at least one of the following documents. The department may require additional documentation if the department believes that the documentation submitted is questionable or if the department has reason to believe that the person is not who the person claims to be.

a. No change.

b. A certified copy of a birth certificate and, if applicable, a certified amended or new birth certificate showing a change in name, date of birth, or sex, filed with a state office of vital statistics or equivalent agency in the applicant's state of birth. The birth certificate must be a certified copy and have the stamp or raised seal of bear the issuing authority authority's certification of authenticity. A hospital-issued certificate is not acceptable. As used herein, "state" means a state of the United

## TRANSPORTATION DEPARTMENT[761](cont'd)

States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

*c. to k.* No change.

**601.5(2) Verification of social security number.**

*a.* Except as provided in paragraph 601.5(2) “*b.*,” an applicant must present the applicant’s Social Security Administration’s account number card; or if a social security account number card is not available, the applicant may present any of the following documents bearing the applicant’s social security number:

(1) to (4) No change.

(5) An Internal Revenue Service Form 1095-A, 1095-B or 1095-C.

*b.* No change.

**601.5(3) and 601.5(4) No change.**

**601.5(5) Verification of name change.** The name listed on the driver’s license or nonoperator’s identification card that is issued shall be identical to the name listed on the identity document submitted unless the applicant submits ~~an affidavit of name change on Form 430043.~~ The affidavit must be accompanied by the chain of legal documents necessary to show the legal change of the applicant’s name from the identity document submitted to the applicant’s current legal name listed on the affidavit. The following documents are acceptable:

*a.* Court-ordered name change. A court order must contain the applicant’s prior ~~full~~ legal name, the applicant’s court-ordered ~~full~~ legal name, the applicant’s date of birth, and the ~~official court seal~~ court’s certification of authenticity. Acceptable court orders include orders under petition for name change, orders for name change set forth in a decree of dissolution, and orders for name change set forth in a decree of adoption.

*b.* ~~Marriage~~ Certified copy of marriage certificate. The marriage certificate must be filed with a state office of vital statistics or equivalent agency in the person’s state or country of marriage. The certificate must ~~be a certified copy and have the stamp or raised seal of bear~~ the issuing authority’s certification of authenticity. A church, chapel or similarly issued certificate is not acceptable. As used herein, “state” means a state of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

**601.5(6) Verification of change of date of birth.** The date of birth listed on the driver’s license or nonoperator’s identification card that is issued shall be identical to the date of birth listed on the identity document submitted unless the applicant submits a certified amended or new birth certificate that documents the change of date of birth and that meets the requirements of paragraph 601.5(1) “*b.*” ~~or submits a court-ordered date of birth change. The court order must contain the applicant’s full legal name, the applicant’s prior date of birth, the applicant’s court-ordered date of birth, and official court seal.~~ 601.5(1) “*b.*”

**601.5(7) Verification of change of sex designation.** The sex designation listed on the driver’s license or nonoperator’s identification card that is issued shall be identical to the sex designation listed on the identity document submitted unless the applicant ~~submits~~ does one of the following:

*a.* Applicants born in Iowa. An applicant born in Iowa must submit a certified amended or new Iowa birth certificate that documents the change of sex designation and that meets the requirements of paragraph 601.5(1) “*b.*” ~~or submits a court-ordered change of sex designation. The court order must contain the applicant’s full legal name, the applicant’s date of birth, the applicant’s prior sex designation, the applicant’s court-ordered sex designation, and official court seal.~~ 601.5(1) “*b.*”

*b.* Applicants born outside of Iowa.

(1) An applicant born outside of Iowa may document the change of sex designation by any of the following methods:

1. Submit a certified amended or new birth certificate from a state other than Iowa that documents the change of sex designation and that meets the requirements of paragraph 601.5(1) “*b.*”

2. Submit an amended or new Consular Report of Birth Abroad that documents the change of sex designation and meets the requirements of paragraph 601.5(1) “*c.*”

## TRANSPORTATION DEPARTMENT[761](cont'd)

3. Submit an amended or new Certificate of Citizenship that documents the change of sex designation and meets the requirements of paragraph 601.5(1) "h."

4. Submit a notarized affidavit from a physician and surgeon or osteopathic physician and surgeon that documents all of the following:

- The physician and surgeon or osteopathic physician and surgeon completed sex designation treatment for the applicant.
- A description of the medical procedures that constituted the treatment.
- As a result of the treatment, the applicant's sex designation was permanently changed by surgery or other treatment.
- The physician and surgeon or osteopathic physician and surgeon's full name, address, state of medical license, and medical license number.

(2) Pursuant to Iowa Code section 321.13, the department may make further investigation or require further information necessary to determine whether a change of sex designation occurred.

c. Documentation. Documentation provided under this subrule shall be submitted to Driver and Identification Services, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa, 50306-9204.

d. Name change. A change of sex designation shall not effect a name change unless the applicant verifies a name change pursuant to subrule 601.5(5).

This rule is intended to implement Iowa Code sections 321.13, 321.182 and 321.189, the REAL ID Act of 2005 (49 U.S.C. Section 30301 note), and 6 CFR Part 37.

ITEM 6. Amend rule 761—601.6(321) as follows:

**761—601.6(321) Parental Parent's, guardian's or custodian's consent.** ~~An~~ The application of an unmarried person under the age of 18 who applies for an Iowa license shall submit parental consent and birth date confirmation on years shall contain the verified consent and confirmation of the applicant's birthday and shall be signed by either parent of the applicant, the guardian of the applicant, or a person having custody of the applicant under Iowa Code chapter 232 or 600A. Consent and confirmation shall be proved by submission of Form 430018, Parent's Written, Guardian's or Custodian's Consent to Issue Privilege to Drive or Affidavit to Obtain Duplicate Driver's License or Permit, or its equivalent in an electronic format to be determined by the department. The parent's signature must be notarized; however, in lieu of notarization it may be witnessed by a driver's license examiner or clerk. The signature, which may be electronic, shall be dated and shall be subject to the following verification or its equivalent: "I certify under penalty of perjury and pursuant to the laws of the state of Iowa that the preceding is true and correct." No exception shall be made for parental the parent's, guardian's or custodian's absence from Iowa. A married person under the age of 18 years shall submit an original or certified copy of a marriage certificate that meets the requirements of paragraph 601.5(5) "b" to avoid submission of the consent form.

This rule is intended to implement Iowa Code section 321.184.

ITEM 7. Amend subrule 605.11(1) as follows:

**605.11(1) Lost, stolen or destroyed license.** To replace a valid license that is lost, stolen or destroyed, the licensee shall comply with the requirements of 761—601.5(321) provide the licensee's full legal name, date of birth, and social security number, all of which must be verified by the department, and pay the replacement fee. A licensee subject to 761—paragraph 601.5(2) "b" shall provide the applicant's U.S. Customs and Immigration Services number, which must be verified by the department. The department may investigate or require additional information as may be reasonably necessary to determine that the licensee's identity matches the identity of record and shall not issue the replacement license if the licensee's identity is questionable, cannot be determined, or otherwise does not match the identity of record. 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 subrule 605.11(2).



## TRANSPORTATION DEPARTMENT[761](cont'd)

ITEM 8. Amend rule **761—605.11(321)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.13, 321.189, 321.195 and 321.208, the REAL ID Act of 2005 (49 U.S.C. Section 30301 note), and 6 CFR Part 37.

ITEM 9. Amend subrule 630.2(2) as follows:

**630.2(2)** The applicant shall present proof of identity, date of birth, social security number, Iowa residency, current residential address and lawful status as required by rule 761—601.5(321). Submission of parental parent's, guardian's or custodian's consent is also required in accordance with rule 761—601.6(321).

ITEM 10. Amend subrule 630.2(3) as follows:

**630.2(3)** The nonoperator's identification card shall be coded for identification only, as explained on the reverse side of the card. ~~The county number shall indicate the county of residence.~~ The card shall expire eight years from the date of issue. A card issued to a person who is a foreign national with temporary lawful status shall be issued only for the length of time the person is authorized to be present in the United States as verified by the department, not to exceed two years. However, if the person's lawful status as verified by the department has no expiration date, the card shall be issued for a period of no longer than one year.

ITEM 11. Amend subrule 630.2(11) as follows:

**630.2(11)** An applicant for a nonoperator's identification card shall surrender all other driver's licenses and nonoperator's identification cards, other than a temporary permit held under Iowa Code section 321.181. This includes any driver's licenses or nonoperator's identification cards issued by jurisdictions a state other than Iowa or a foreign jurisdiction, unless otherwise provided in a letter of understanding or other written memorialization of reciprocity or understanding. An applicant who renews a nonoperator's identification card electronically pursuant to subrule 630.2(10) shall destroy the previous nonoperator's identification card upon receipt of a renewed nonoperator's identification card.

ITEM 12. Amend subrule 630.3(1) as follows:

**630.3(1)** *Lost, stolen or destroyed card.* To replace a nonoperator's identification card that is lost, stolen or destroyed, the cardholder shall ~~comply with the requirements of 761—601.5(321)~~ provide the cardholder's full legal name, date of birth, and social security number, all of which must be verified by the department, and pay the replacement fee. A cardholder subject to 761—paragraph 601.5(2) "b" shall provide the applicant's U.S. Customs and Immigration Services number, which must be verified by the department. The department may investigate or require additional information as may be reasonably necessary to determine that the cardholder's identity matches the identity of record and shall not issue the replacement card if the cardholder's identity is questionable, cannot be determined, or otherwise does not match the identity of record. If the cardholder's current residential address, name, date of birth, or sex designation has changed since the previous card was issued, the cardholder shall comply with 761—subrule 605.11(2).

ITEM 13. Amend **761—Chapter 630**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 321.13, 321.189, 321.190, 321.195, 321.216, 321.216A, 321.216B and 321.216C, the REAL ID Act of 2005 (49 U.S.C. Section 30301 note), and 6 CFR Part 37.

**ARC 3305C****TRANSPORTATION DEPARTMENT[761]****Notice of Intended Action**

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

Pursuant to the authority of Iowa Code sections 307.12, 307A.2, 321.179 and 321.180B(5), the Iowa Department of Transportation hereby gives Notice of Intended Action to amend Chapter 635, “Motorcycle Rider Education (MRE),” Iowa Administrative Code.

The Department is proposing to make two technical amendments to strike an outdated reference to Iowa Code section 321.180B(6) and to replace it with the correct reference to Iowa Code section 321.179 in subrule 635.2(1) and in the chapter’s implementation sentence.

These rules do not provide for 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.

Any person or agency may submit written comments concerning these proposed amendments or may submit a written request to make an oral presentation. The comments or request shall:

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.
3. Indicate the general content of a requested oral presentation.
4. Be addressed to Tracy George, Rules Administrator, Iowa Department of Transportation, Strategic Communications and Policy, 800 Lincoln Way, Ames, Iowa 50010; e-mail: [tracy.george@iowadot.us](mailto:tracy.george@iowadot.us).
5. Be received by the Department’s rules administrator no later than October 3, 2017.

A meeting to hear requested oral presentations is scheduled for Thursday, October 5, 2017, at 10 a.m. at the Iowa Department of Transportation’s Motor Vehicle Division offices located at 6310 SE Convenience Boulevard, Ankeny, Iowa.

The meeting will be canceled without further notice if no oral presentation is requested.

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

These amendments are intended to implement Iowa Code sections 321.179 and 321.180B(5).

The following amendments are proposed.

ITEM 1. Amend subrule 635.2(1) as follows:

**635.2(1)** Any entity providing motorcycle rider education to persons under the age of 18 for purposes of early licensing or seeking reimbursement under Iowa Code ~~subsection 321.180B(6)~~ section 321.179 for providing motorcycle rider education to persons aged 18 and older must teach the motorcycle rider education course approved by the department.

ITEM 2. Amend **761—Chapter 635**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~subsections~~ sections 321.179 and 321.180B(5) and ~~321.180B(6)~~.

## ARC 3311C

## NURSING BOARD[655]

## Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3 and 147.76, the Board of Nursing hereby rescinds Chapter 5, “Continuing Education,” Iowa Administrative Code, and adopts a new Chapter 5 with the same title.

The changes included in new Chapter 5:

- Clarify existing definitions.
- Add definitions.
- Change the contact hour measurement from 50 minutes to 60 minutes.
- Make the content regarding contact hours clearer and include the content in both the provider and the licensee sections of the chapter.
- Require licensees to complete 36 contact hours of continuing education (CE) regardless of the licensure term (e.g., a two-year or three-year license).
- Allow licensees to utilize CE earned through the entire renewal period.
- Expand the list of acceptable approved providers.
- Add that American Nurses Credentialing Center (ANCC) providers without Iowa approval may offer coursework in Iowa without the cosponsorship of an Iowa approved provider.
- Remove the restriction that webinars from out of state must be cosponsored by Iowa approved providers.
- Provide specific lists of acceptable courses by which to earn CE.
- Condense the provider portion of the rule.
- Remove the approved provider application and renewal procedures.
- Provide criteria regarding what is and what is not acceptable for nursing CE.
- Reorder the provider sections of the chapter for better flow.
- Change the number of attempts for application as an approved provider from three attempts to two attempts within one year of filing.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 3046C** on May 10, 2017, and a public hearing was held on May 30, 2017, at the Board Office. Comments were received regarding this rule making. The comments included positive support for the rule making as well as requests for further clarification and explanation relating to the following rule changes:

- Increasing the contact hours from 50 minutes to 60 minutes.
- Removing CPR as approved subject matter.
- Using national certifications to fulfill continuing education requirements.
- Changes to the rules regarding continuing education providers.

The Board of Nursing adopted the amendment relating to Chapter 5, which is identical to that published under Item 3 in **ARC 3046C**, on July 19, 2017. The proposed amendments to Chapter 3 require additional research and will be addressed at a future Board meeting.

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

This amendment is intended to implement Iowa Code chapters 17A, 147, 152, and 272C.

This amendment will become effective on January 1, 2018.

The following amendment is adopted.

Rescind 655—Chapter 5 and adopt the following new chapter in lieu thereof:

CHAPTER 5  
CONTINUING EDUCATION

**655—5.1(272C) Definitions.**

“*Academic offering*” means an extension course, independent study, or other course which is offered for academic credit or audit by an accredited institution of higher education.

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

“*Approved provider*” means a person, organization, or institution that holds an Iowa approved provider number and has met the criteria specified in subrule 5.3(4).

“*Approved provider number*” means the board-assigned number which identifies an Iowa approved provider.

“*Audit*” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period; or the selection of Iowa approved providers for verification of adherence to continuing education approved provider requirements during a specified time period.

“*Certification*” means evidence of advanced credentials earned by a licensee who has met all eligibility criteria.

“*Continuing education*” means planned, organized learning activities which are designed to maintain, improve, or expand nurses’ knowledge and skills or to develop new knowledge and skills relevant to nursing for the enhancement of practice, education, administration, or theory development.

“*Continuing education credit*” means contact hours or continuing education units (CEUs) to show evidence of course attendance.

“*Extended course*” means an organized program of study offered in a series of sessions.

“*Informal offering*” means a workshop, seminar, webinar or online course, institute, conference, lecture, extended course, provider-designed self-study, or learner-designed self-study which is offered for credit in contact hours or continuing education units.

“*Learner-designed self-study*” means lecture development, research, preparation of articles for publication, development of patient care programs or patient education programs, or projects directed at resolving administrative problems in which the learner takes the initiative and the responsibility for assessing, planning, implementing, and evaluating an educational activity under the guidance of an Iowa approved provider.

“*Nonapproved provider*” means a person, organization, or institution that does not hold an Iowa approved provider number. The board may recognize credit from nonapproved providers as specified in subrule 5.2(7).

“*Practicum*” means a course-related, planned and supervised clinical experience which includes clinical objectives and assignment to practice in a laboratory setting or with patients/clients/families for attainment of the objectives.

“*Provider-designed self-study*” means a program that the provider designs for the nurse to complete at the nurse’s own pace, e.g., home study, programmed instruction.

**655—5.2(272C) Continuing education—licensees.**

**5.2(1) Board authority.** The board derives its authority under Iowa Code chapter 272C to establish continuing education requirements as a prerequisite to obtain a current license and to establish an audit system to ensure compliance.

**5.2(2) Requirements.** To renew a license, the licensee shall verify the completion of 36 contact hours or 3.6 CEUs of credit or an exemption to the continuing education requirements. The hours shall be completed between the effective date and the expiration date of the license. The cost of continuing education is the responsibility of the licensee.

**5.2(3) Accumulating hours or credit.**

*a.* Units of measurement used for continuing education courses shall be as follows:

(1) One contact hour = 60 minutes of didactic instruction, work on learner-designed self-study, and clinical or laboratory practicum in an informal offering.

(2) One CEU = 10 contact hours.

(3) One academic semester hour = 15 contact hours.

(4) One academic quarter hour = 10 contact hours.

*b.* Continuing education credit will not be accepted for the same course more than once within a license period.

*c.* Continuing education credit shall not be carried over to a future license period.

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

d. Approved make-up credit shall not be used more than once.

**5.2(4) Appropriate subject matter.**

a. Appropriate subject matter for continuing education credits reflects the educational needs of the nurse learner and the health needs of the consumer. Appropriate subject matter is limited to offerings that are scientifically founded and predominantly for professional growth. The following areas are deemed appropriate subject matter for continuing education credit:

- (1) Nursing practice related to health care of patients/clients/families in any setting.
- (2) Professional growth and development related to nursing practice roles with a health care focus.
- (3) Sciences upon which nursing practice, nursing education, or nursing research is based, e.g., nursing theories and biological, physical, behavioral, computer, social, or basic sciences.
- (4) Social, economic, ethical and legal aspects of health care.
- (5) Management of or administration of health care, health care personnel, or health care facilities.
- (6) Education of patients or patients' significant others, students, or personnel in the health care field.

b. Continuing education credit shall not be awarded for the following:

- (1) Self-help and self-care that are not scientifically supported.
- (2) Cardiopulmonary resuscitation and basic life support classes.
- (3) Orientation in-service activities.

c. Academic offerings shall meet the qualifications of appropriate subject matter as specified above or meet the requirements of a nursing education program which extends beyond the education completed for the original nursing license. The licensee shall retain a transcript exhibiting a passing grade for each academic offering.

**5.2(5) Options for continuing education.** The following are options to complete continuing education requirements:

a. Informal offerings by the following entities:

- (1) Board-approved providers.
- (2) Other approved providers from state boards of nursing that have mandatory continuing education requirements.
- (3) American Nurses Credentialing Center (ANCC) Commission on Accreditation.
- (4) National League for Nursing (NLN).
- (5) National Federation of Licensed Practical Nurses Continuing Education (NFLPN) and the NFLPN Education Foundation.
- (6) National Association for Practical Nurse Education and Service, Inc. (NAPNES).

b. National certification or recertification which is related to the practice of nursing and is current at the time of a license renewal. The national certification or recertification shall be recognized as 36 contact hours of continuing education.

c. Completion of a board-approved nurse refresher course. Hours of participation will be recognized as contact hours of continuing education.

d. Participation as a preceptor for a nursing student or employee transitioning into a new clinical practice area, for a minimum of 120 hours in a one-to-one relationship as part of an organized preceptorship program. A licensee shall maintain documentation issued by the institution supervising the student or employee demonstrating the objectives of the preceptorship and the hours completed. A preceptorship shall be recognized as 12 contact hours of continuing education.

e. Completion of a nurse residency program. A residency program shall be recognized as 36 contact hours of continuing education.

f. Academic offerings provided by the following entities:

- (1) Community colleges.
- (2) Public and private colleges and universities.
- (3) Governmental academies.

**5.2(6) Documentation.** Licensees are required to keep the following documentation, as applicable, for a period of four years: certificates of attendance, letters verifying special approval for informal offerings from nonapproved providers, transcripts, proof of certification and documentation of

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

compliance with an exemption. The certificates of attendance shall include licensee name, course date, course title, awarded hours, and provider approval information.

**5.2(7) *Special approval process.*** An informal offering from a nonapproved provider or an organization not specified in subrule 5.2(5) shall be accepted when the offering is specially approved by the board for an individual licensee. A licensee shall obtain special approval from the board staff, prior to the completion of the licensure period, in order to receive credit acceptable to fulfill the requirements. Special approval requires submission of a completed application and a brochure, advertisement, or course description and a certificate of attendance for the offering. Course content shall meet the qualifications of appropriate subject matter as specified in subrule 5.2(4). The licensee shall retain the approval letter from the board staff and the certificate of attendance received from the nonapproved provider. A denial of approval may be appealed to the board within 30 days of the denial.

**5.2(8) *Exemptions to continuing education.*** A licensee shall be exempt from continuing education requirements if the licensee:

*a.* Served honorably on active duty in the United States military services during the license period. A licensee who claims this exemption shall retain evidence of active duty to be presented upon request.

*b.* Possesses a current license to practice in another state that has mandatory continuing education requirements, so long as the license is active and the licensee resides in a state other than Iowa at the time of renewal or reactivation.

*c.* Worked as a registered nurse or licensed practical nurse for the government or foreign service or in missionary work, if the licensee was assigned to duty outside of the United States during the relevant time period. A licensee who claims this exemption shall retain evidence of employment outside of the United States to be presented upon request.

*d.* Had a physical or mental disability or illness during the relevant time period and applied for an extension of time to complete continuing education requirements or for a medical exemption from the continuing education requirements. An application is available upon request and requires the signature of a health care provider who can attest to the existence of a disability or illness during the license period. The application form shall be submitted prior to license expiration. A licensee shall not claim an extension of time or exemption from continuing education requirements on a license renewal application pursuant to this rule unless and until the licensee has received approval. A licensee who obtains approval shall retain a copy of the written approval to be presented upon request.

**5.2(9) *Failure to meet requirement or qualify for an exemption.*** A licensee who fails to meet continuing education requirements or qualify for an exemption prior to license expiration cannot renew the license and has the following options:

*a.* Complete the continuing education requirements or qualify for an exemption during the late renewal period. The licensee may be required to submit to an audit of continuing education following the late renewal and may be reaudited in the next renewal period when late credit has been accepted. Continuing education credit shall not be used more than once.

*b.* If the licensee does not renew within 30 days after license expiration, the license shall be placed on inactive status. An inactive license may be reactivated pursuant to 655—subrule 3.7(5).

**5.2(10) *Audit of licensees.*** The board may select licensees for audit following a period of licensure.

*a.* The licensee must submit verification of compliance with continuing education requirements or of exemptions for the period of licensure being audited. Verification for satisfactory completion of the audit includes legible copies of certificates of attendance, transcripts, proof of certification, documentation of special approval of informal offerings from nonapproved providers, documentation of compliance with exemptions in subrule 5.2(8), or other appropriate documentation.

*b.* The licensee must submit verification of completion of the mandatory reporter training course approved by the Iowa department of public health in the previous five years as specified in 655—subrule 3.7(3).

*c.* Verification must be submitted within 30 days after the date of the audit notification. An extension of time may be granted on an individual basis.

*d.* If submitted materials are incomplete or unsatisfactory, the licensee shall be notified. The licensee shall be given the opportunity to submit make-up credit to cover the deficit found through the

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audit. The deadline for receipt of the documentation for this make-up credit is within 90 days of the board office notification. The licensee may be reaudited during the next renewal period when make-up credit has been accepted. The make-up credit shall not be reused for the current renewal period.

*e.* The board shall notify the licensee of satisfactory completion of the audit.

*f.* Failure to complete the audit satisfactorily or falsification of information may result in board action as described in 655—Chapter 4.

*g.* Failure to notify the board of a current mailing address will not absolve the licensee of the audit requirement.

**655—5.3(272C) Continuing education—providers.**

**5.3(1) Board authority.** The board derives its authority under Iowa Code chapter 272C to establish requirements for becoming an Iowa approved provider and maintaining that status. The board also has the authority to audit approved providers.

**5.3(2) Initial approval process for providers.** Initial approval is granted upon the submission of required materials and the determination by the board or its representative that the materials fulfill the criteria for approved providers specified in subrule 5.3(4).

*a.* An application for Iowa provider approval, including the procedural instructions and requirements, is available on the board's Web site.

*b.* Upon receipt of three copies of the completed application materials, a review is held by a committee composed of at least three appointees of the board.

(1) The review is held at the board office within 60 days of receipt of the application.

(2) The committee review is based on the criteria specified in subrule 5.3(4).

(3) If the submitted materials meet the requirements, the committee shall approve the provider for five years and issue a provider number to the provider. The approved provider shall be notified by staff of the decision within two weeks of the committee review.

(4) If the committee finds submitted materials are incomplete or unsatisfactory, staff shall notify the provider applicant of the decision within two weeks of the committee review. The applicant is given the opportunity to meet the criteria and for an additional review to be held at the board office within six weeks of receipt of the revised application materials.

(5) If the applicant is unable to meet the criteria within two committee reviews or one year from the receipt of the initial application at the board office, whichever comes first, the committee shall recommend nonapproval at the next regularly scheduled board meeting.

(6) Notice of this recommendation of nonapproval shall be provided to the applicant by staff at least 30 days before the board meeting.

(7) The board shall make a decision regarding each recommendation of nonapproval at a board meeting.

*c.* A provider applicant who wishes to appeal the board's decision regarding nonapproval shall file an appeal within 30 days of the board's decision of nonapproval. A timely appeal shall initiate a contested case proceeding regarding the provider applicant's approval status. The contested case shall be conducted according to the provisions of Iowa Code chapter 17A and 655—Chapter 20. The written decision issued at the conclusion of a contested case hearing shall be considered final agency action.

*d.* A provider applicant who has been denied approved provider status may apply no sooner than one year after denial to become an approved provider by starting the initial approval process.

**5.3(3) Reapproval process for approved providers.** Reapproval is granted upon the submission of required materials and the determination by the board or its representatives that the materials fulfill the criteria for approved providers specified in this chapter.

*a.* The board staff shall send an application for reapproval to an approved provider six months before the expiration of the current approval. The completed application shall be submitted to the board office no later than three months prior to the expiration of the current approval.

*b.* Upon receipt of the application for reapproval, a review shall be made by board staff at the board office within 30 days of receipt of the application.

(1) The review is based on the criteria specified in subrule 5.3(4).

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(2) If the submitted materials meet the requirements, staff shall issue a renewal of the approved provider status for a five-year period.

(3) If the submitted materials are incomplete or unsatisfactory, staff shall notify the provider of the decision within two weeks of the review. The provider shall be given the opportunity to meet the criteria within 30 days of the receipt of the board office notification. If the provider is unable to meet the requirements, staff shall recommend nonapproval at the next regularly scheduled board meeting.

(4) Notice of this recommendation of nonapproval shall be provided to the applicant at least 30 days before the board meeting.

(5) The board shall make a decision regarding each recommendation of nonapproval at the board meeting.

(6) A renewal applicant who wishes to appeal the board's decision regarding nonapproval shall file an appeal within 30 days of the board's decision of nonapproval. A timely appeal shall initiate a contested case proceeding regarding the provider applicant's approval status. The contested case shall be conducted according to the provisions of Iowa Code chapter 17A and 655—Chapter 20. The written decision issued at the conclusion of a contested case hearing shall be considered final agency action.

(7) A reapproval applicant who has been denied reapproval may reapply no sooner than one year after denial. The initial approval process must be followed to reapply.

**5.3(4) Criteria for approved providers.** Approved providers shall adhere to criteria indicative of quality continuing education for nurses. Provider approval applies to all programs regardless of geographic location.

*a.* Criteria related to appropriate subject matter. Appropriate subject matter for continuing education credits reflects both the educational needs of the nurse learner and the health needs of the consumer. Subject matter is limited to offerings that are scientifically founded and predominantly for professional growth. The following areas are deemed appropriate subject matter for continuing education credit:

- (1) Nursing practice related to health care of patients/clients/families in any setting.
- (2) Professional growth and development related to nursing practice roles with a health care focus.
- (3) Sciences upon which nursing practice, nursing education, or nursing research is based, e.g., nursing theories and biological, physical, behavioral, computer, social, or basic sciences.
- (4) Social, economic, ethical and legal aspects of health care.
- (5) Management of or administration of health care, health care personnel, or health care facilities.
- (6) Education of patients or patients' significant others, students, or personnel in the health care field.

*b.* Continuing education credit shall not be awarded for the following:

- (1) Self-help or self-care that is not scientifically supported.
- (2) Cardiopulmonary resuscitation and basic life support classes.
- (3) Orientation in-service activities.

*c.* Criteria related to operation of an approved continuing education providership. The provider shall:

(1) Have a consistent, identifiable authority who has overall responsibility for the operation of the providership. The authority shall be knowledgeable in administration and have the capability to organize, execute, and evaluate the overall operations of the providership.

(2) Have an organizational chart to delineate lines of authority and communication within the providership, including any other cooperative or advisory committees. The organizational chart must illustrate the reporting structure of the providership within the parent organization, if applicable.

(3) Develop and implement mission, vision and values statements specific to the providership, and a strategic plan for their implementation.

(4) Maintain financial integrity so that participants receive the continuing education for which they have paid.

(5) Maintain participant and program records.



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

(6) Demonstrate and guarantee active nursing participation in the planning and administration of informal offerings. Nursing participation shall be documented in a written statement of policy, in denotation on the organizational chart, and in planning minutes.

(7) Develop a subject matter plan which indicates the mechanism of assessing the practice gaps of the nurse learner and describes how the provider shall meet the appropriate subject matter criteria as specified in subparagraphs 5.3(4)“a”(1) to (6).

(8) Demonstrate planning for each offering that includes a statement of purpose and measurable and observable learning outcomes. The outcomes shall address the educational needs and shall result in narrowing or closing the identified practice gap(s).

(9) Provide notification to licensees of the availability of informal offerings. A brochure or written advertisement shall be developed for all informal offerings other than learner-designed self-study, and an electronic copy shall be sent to the board prior to each offering. The brochure or written advertisement shall accurately describe the activities by including the date, time, and location of the informal offering, a statement of purpose, educational objectives, the intended audience, credentials of instructors, the amount of continuing education credit to be awarded, and, if applicable, costs and items covered by the fee and refund policy. The board-approved provider number shall appear on the brochure or written advertisement.

(10) Structure the program content and learning experience to relate to the stated purpose and objectives. Program content shall cover one topic or a group of closely related topics. Current, relevant, scientifically based supportive materials shall be used.

(11) Develop policies and procedures for verification of satisfactory completion of the activity by each participant. Policy shall include a system for verification of satisfactory completion, the control methods to ensure completion and a method to inform participants that completion of the offering is required prior to the awarding of credit. The provider may make an exception and award partial credit in extreme emergency conditions. The provider may award credit to other members of the providership who attend but do not serve as organizers during the actual offering. The provider may base the verification of satisfactory completion of an extended course on the participant's meeting the course objectives rather than on the number of sessions attended. The provider may award credit to a nurse for learner-designed self-study such as lecture development, research, preparation of articles for publication, development of patient care programs or patient education programs, or projects directed at resolving administrative problems.

(12) Develop policies and procedures for management of continuing education programs, including registration procedures, tuition refund, and enrollee grievances.

(13) Assign credit according to a uniform measure of credit: One contact hour equals 60 minutes. Credit shall not be awarded for courses less than one contact hour.

(14) If desired, cosponsor an offering provided by a nonapproved provider. When cosponsoring is pursued, the approved provider is responsible for ensuring that all criteria are met. A cosponsorship contract or letter of agreement shall delineate responsibilities of all parties, which include the approved provider awarding the credit and maintaining the program and participant records. Cosponsoring is not acceptable for learner-designed self-study.

(15) An approved provider shall notify the board within 30 days of changes in the administrative authority or address of the providership, or the provider's inability to meet the approved provider criteria.

*d.* Criteria related to record system and maintenance of continuing education programs. The provider shall:

(1) Maintain participant records for a minimum of four years from the date of program completion. The participant records shall include the name of the licensee, license number, contact hours awarded, titles of offerings, and dates of offerings. The record system policy and procedure shall provide for secure storage and retrieval of the participant records, shall limit employee access and shall describe security measures. Upon request from an individual nurse or the board, individual attendance and information regarding each offering shall be available within two weeks after the request. If individual nurses are assessed a fee for this retrieval service, the fee shall be specified. The board may not be charged for record retrieval requests.

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

(2) Maintain program records for a minimum of four years from the date of program completion. Program records for all informal offerings, other than learner-designed self-study, shall include a brochure or advertising, roster of participants to whom credit was awarded, and a summary of the program including participant and provider evaluations. The approved provider shall submit records for one informal offering in the most recent year for renewal of the approved provider status. Program records for learner-designed self-study shall include the written agreement between the learner and provider, date of completion, and learner and provider evaluations.

(3) Furnish a certificate to each participant documenting the date the credit was earned. The front of the certificate shall display: participant's name, provider number, contact hours awarded, date(s) of the offering, program title, and a reminder to the participant to retain the certificate for four years. A certificate issued by electronic means must be a print-only file.

*e.* Criteria related to faculty who teach informal offerings. The faculty shall:

(1) Be current, knowledgeable, and skillful in the subject matter of the offering by supplying evidence of further education in the subject. Such education shall be acquired through course completion or an advanced degree, experience in teaching in the specialized area within the three years preceding the offering, or one year of work experience in the specialized area within the three years preceding the offering.

(2) If applicable, be skillful in assisting a nurse in designing a learner-designed self-study program by having experience or education in course design.

(3) Include an actively licensed nurse if the subject matter is nursing or if the informal offering is learner-designed self-study.

(4) Utilize teaching methodologies appropriate to the subject, audience, and time allotment.

(5) Utilize current supportive materials by drawing from resources that are predominantly less than five years old unless the topic is of an historical nature.

(6) Not receive credit when teaching participants unless the faculty is presenting the offering for the first time. Faculty may receive partial credit for other presentations attended as part of the same offering.

(7) Not receive credit for learner-designed self-study from a provider which employs the faculty in the regular administration of the providership.

*f.* Criteria related to evaluation of continuing education programs. The provider shall include:

(1) A design for participants to assess achievement of program objectives, faculty effectiveness, and teaching-learning methodologies, resources and facilities for each offering.

(2) A summary evaluation process to assess the effectiveness of the offering and identify how results may be used to plan future offerings.

(3) A method of notifying the participants that the evaluation may be submitted directly to the board.

**5.3(5) *Voluntary relinquishment of an approved providership.*** An approved provider may voluntarily relinquish its provider number in one of two ways: Method one is to notify the board in writing that it no longer wants to be an Iowa approved provider. Method two is when an approved provider does not submit the required materials for reapproval or is unable to be located by the board, by certified mail, the board will consider that the provider has voluntarily relinquished its approved provider status.

*a.* When the approved providership has been voluntarily relinquished, the provider shall discontinue providing continuing education as an Iowa approved provider.

*b.* The provider shall maintain the records as required in subrule 5.3(4) for four years after the last credit was granted or shall transfer the records to the custody of the board.

*c.* The board staff shall notify other states which have mandatory nursing continuing education of the relinquishment of the approved provider status and the reason(s) for relinquishment.

*d.* The provider whose approved provider status has been voluntarily relinquished may apply to become an approved provider by starting the initial approval process.

**5.3(6) *Audit of approved providers.*** The board shall monitor approved providers for adherence to criteria as established in this chapter.

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

- a.* The board may order an audit of an approved provider or may audit as a result of a written complaint. A written complaint may be filed with the board against a provider for acts or omissions which indicate a failure to meet the criteria established in this chapter.
- b.* The board may revoke the approved-provider status for willful or repeated failure to meet one or more of the criteria specified in subrule 5.3(4).
- c.* A notice of revocation shall be issued to the provider. A provider who wishes to appeal the board's decision regarding revocation shall file an appeal within 30 days of the board's decision of revocation. A timely appeal shall initiate a contested case proceeding regarding the provider's revocation. The contested case shall be conducted according to the provisions of Iowa Code chapter 17A and 655—Chapter 20. The written decision issued at the conclusion of a contested case hearing shall be considered final agency action.
- d.* A provider whose approved-provider status has been revoked shall no longer advertise that the provider is an approved provider. The provider number shall no longer be used or appear in brochures, advertisements, certificates, or other materials.
- e.* A provider whose approved-provider status has been revoked shall maintain the records required in subrule 5.3(4) for four years after the last credit was granted or shall transfer the records to the custody of the board.
- f.* The board shall notify other states that have mandatory nursing continuing education of the revocation of the approved-provider status and the reason(s) for revocation.
- g.* A provider whose approved-provider status has been revoked may reapply no sooner than one year after the revocation of approval. The initial approval process must be followed to reapply. These rules are intended to implement Iowa Code sections 272C.2 and 272C.3.

[Filed 8/22/17, effective 1/1/18]

[Published 9/13/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/13/17.

**ARC 3312C**

**REVENUE DEPARTMENT[701]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 421.14, the Department of Revenue hereby amends Chapter 71, "Assessment Practices and Equalization," Iowa Administrative Code.

This amendment updates the rule to comply with a change to the law enacted by 2017 Iowa Acts, Senate File 408, which requires licensure rather than registration of architects.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 3203C** on July 19, 2017. No public comments were received. This amendment is identical to that published under Notice.

Any person who believes that the application of the discretionary provisions of this rule would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

The Department adopted this amendment on August 23, 2017.

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

This amendment is intended to implement Iowa Code section 441.31.

This amendment will become effective October 18, 2017.

The following amendment is adopted.

Amend paragraph **71.20(1)"a"** as follows:

- a. Occupation of members.* One member of the county board of review must be actively engaged in farming as that member's primary occupation. However, it is not necessary for a board of review to have as a member one licensed real estate broker and one ~~registered~~ licensed architect or person experienced in the building and construction field if the person cannot be located after a good faith

REVENUE DEPARTMENT[701](cont'd)

effort to do so has been made by the conference board (1966 O.A.G. 416). In determining eligibility for membership on a board of review, a retired person is not considered to be employed in the occupation pursued prior to retirement, unless that person remains in reasonable contact with the former occupation, including some participation in matters associated with that occupation.

[Filed 8/23/17, effective 10/18/17]

[Published 9/13/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/13/17.

**ARC 3313C**

**REVENUE DEPARTMENT[701]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 421.14, the Department of Revenue hereby amends Chapter 72, "Examination and Certification of Assessors and Deputy Assessors," Iowa Administrative Code.

This amendment eliminates the right of persons who have taken the assessor or deputy assessor examination to review their examinations within 60 days after the date of the administration of the examination. Under the current rule, any persons who have taken the examination may, after presenting proper identification, review their examinations in the office of the Department's Property Tax Division within 60 days after the date the examination was administered. The Legislature recently charged the Department with reviewing the assessor examination and certification process as outlined in 2017 Iowa Acts, House File 478. As part of that review process, the Department determined that allowing a review of the examination has contributed to undermining its effectiveness. The Department has decided to rescind the privilege of reviewing the examination after it has been administered and, accordingly, rescinds the subrule allowing such review.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 3206C** on July 19, 2017. No public comments were received. This amendment is identical to that published under Notice.

Any person who believes that the application of the discretionary provisions of this amendment would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

The Department adopted this amendment on August 23, 2017.

After analysis and review of this rule making, the Department finds that no negative impact on jobs exists.

This amendment is intended to implement Iowa Code section 441.5.

This amendment will become effective October 18, 2017.

The following amendment is adopted.

Rescind and reserve subrule **72.2(6)**.

[Filed 8/23/17, effective 10/18/17]

[Published 9/13/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/13/17.

**ARC 3314C**

**REVENUE DEPARTMENT[701]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 421.14, the Department of Revenue hereby amends Chapter 80, "Property Tax Credits and Exemptions," Iowa Administrative Code.

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

Iowa Code section 476B.6(1)“b”(2) requires the Department of Revenue to centrally assess wind energy conversion property located in a jurisdiction that has not enacted an ordinance to specially value this property under Iowa Code section 427B.26. However, Iowa Code section 476B.6 only applies to property placed in service after July 1, 2005, and before July 1, 2012. The administrative rule corresponding to this Iowa Code provision does not provide the dates required by the Iowa Code for being placed in service. This amendment clarifies rule 701—80.13(427B,476B) to reflect the proper sunset date.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 3208C** on July 19, 2017. No public comments were received. This amendment is identical to that published under Notice.

Any person who believes that the application of the discretionary provisions of this amendment would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

The Department adopted this amendment on August 23, 2017.

After analysis and review of this rule making, the Department finds that no negative impact on jobs exists.

This amendment is intended to implement Iowa Code section 476B.6.

This amendment will become effective October 18, 2017.

The following amendment is adopted.

Amend rule 701—80.13(427B,476B) as follows:

**701—80.13(427B,476B) Wind energy conversion property.**

**80.13(1) *Special valuation allowed by ordinance.*** A city council or county board of supervisors may provide by ordinance for the special valuation of wind energy conversion property. If the ordinance is repealed, the special valuation applies through the nineteenth assessment year following the first year the property was assessed. Once the ordinance has been repealed and the special valuation is no longer applicable, the property must be valued at market value rather than at 30 percent of net acquisition cost. The special valuation applies to property first assessed on or after the effective date of the ordinance. The local assessor must value the property in accordance with the schedule provided in Iowa Code section 427B.26(2). The property qualifies for special valuation provided the taxpayer files a declaration of intent with the local assessor by February 1 of the assessment year in which the property is first assessed for tax to have the property locally assessed. The property must not be assessed until the assessment year following the year the entire wind plant is completed. A wind plant is completed when it is placed in service.

**80.13(2) *Special valuation not allowed by ordinance.*** If a city council or county board of supervisors has not passed an ordinance providing for the special valuation of wind energy conversion property, ~~the~~ property that was placed in service after July 1, 2005, and before July 1, 2012, is to be assessed by the department of revenue for a period of 12 years, and the taxes payable on the facilities are to be paid to the department at the same time as regular property taxes. The owner of the facility must file an annual report with the department by May 1 of each year during the 12-year assessment period, and the department must certify the assessed value of the facility by November 1 of each year to the county auditor. The board of supervisors must notify the county treasurer to state on the tax statement that the property taxes are to be paid to the department. The board must also notify the department of those facilities that are required to pay the property taxes to the department. The department must notify the county treasurer of

REVENUE DEPARTMENT[701](cont'd)

the date the taxes were paid within five business days of receipt, and the notification is authorization for the county treasurer to mark the record as paid in the county system.

This rule is intended to implement Iowa Code section 427B.26 and chapter 476B as amended by 2009 Iowa Acts, Senate File 456, sections 2 and 4.

[Filed 8/23/17, effective 10/18/17]

[Published 9/13/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/13/17.

**ARC 3315C**

## **REVENUE DEPARTMENT[701]**

### **Adopted and Filed**

Pursuant to the authority of Iowa Code section 421.14, the Department of Revenue hereby amends Chapter 80, "Property Tax Credits and Exemptions," Iowa Administrative Code.

This amendment clarifies the reporting requirement for county auditors when filing a claim for the commercial and industrial property tax replacement. The amendment makes clear that the reporting requirements must be fulfilled each year, regardless of whether the Legislature appropriates funds to pay the replacement claims.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 3207C** on July 19, 2017. No public comments were received. This amendment is identical to that published under Notice.

The Department adopted this amendment on August 23, 2017.

After analysis and review of this rule making, the Department finds that no negative impact on jobs exists.

This amendment is intended to implement Iowa Code section 441.21A.

This amendment will become effective October 18, 2017.

The following amendment is adopted.

Amend paragraph **80.49(2)"b"** as follows:

*b.* On or before September 1 of each fiscal year beginning on or after July 1, 2014, the county auditor shall, based upon the information in the report required to be provided in paragraph "a" of this subrule, prepare and submit a statement to the department of revenue which lists, for each taxing district in the county, the information required in 80.49(1). The county auditor shall prepare and submit the required information regardless of whether the legislature has appropriated funds to pay replacement claims for the current year.

[Filed 8/23/17, effective 10/18/17]

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**ARC 3316C**

## **UTILITIES DIVISION[199]**

### **Adopted and Filed**

Pursuant to Iowa Code sections 17A.4, 476.2, 476.8, 476.9 and 476.18, the Utilities Board (Board) gives notice that on August 23, 2017, the Board issued an order in Docket No. RMU-2016-0024, In re: Review of Accounting Rules [199 IAC Chapter 16], "Order Adopting Amendments," amending the Board's Chapter 16 accounting rules.

The Board is undertaking a comprehensive review of its rules and, as part of that review, is attempting to make the rules more readable, streamline reporting requirements in the rules, ensure the rules are

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current, and transition away from providing forms within the rules. The intent of these amendments is to promote ease of access for those interacting with the Board.

The specific amendments adopted by the Board remove outdated language related to telegraph utilities and language related to initial filing requirements at the time rule 199—16.7(476) was first implemented.

Notice of Intended Action was published in the June 21, 2017, Iowa Administrative Bulletin as **ARC 3121C**. The Office of Consumer Advocate, a division of the Iowa Department of Justice, filed a statement of position stating it has no objection to the changes. No other party filed comments. The adopted amendments are identical to those published under Notice of Intended Action.

The order approving this Adopted and Filed rule making can be found on the Board's Electronic Filing System Web site, <http://efs.iowa.gov>, in Docket No. RMU-2016-0024.

After analysis and review of this rule making, the Board concludes that the amendments will not have a detrimental effect on jobs in Iowa.

These amendments are intended to implement Iowa Code sections 476.1, 476.2, 476.8, 476.9, 476.18, and 546.7.

These amendments will become effective October 18, 2017.

The following amendments are adopted.

ITEM 1. Rescind and reserve rule **199—16.6(476)**.

ITEM 2. Amend rule 199—16.7(476) as follows:

**199—16.7(476) Filing of present promotional practices.**

**16.7(1)** Each public utility subject to rate regulation shall file with the board ~~within 60 days of the effective date of this rule a schedule setting forth each of the promotional practices in which engaged as defined in the board's uniform systems of accounts~~ written documentation describing any proposed new promotional practice as defined in the board's uniform system of accounts no less than 30 days prior to the practice's expected implementation. All practices for which the costs are to be charged to account 424 (electric and gas) ~~or 31.324 (telephone)~~ shall be set forth. The accounts currently being charged with these practices shall be so listed. The company shall show the following data for each promotional practice.

- ~~1. a.~~ The name, number, or letter designation of each such promotional practice.
- ~~2. b.~~ The class of persons to which such promotional practice is being offered or granted.
- ~~3. c.~~ Whether such promotional practice is being uniformly offered or granted to the persons within such class.
- ~~4. d.~~ A description of such promotional practice, which shall include a statement of the terms and conditions governing same.
- ~~5. e.~~ A description of the advertising or publicity employed with respect to such promotional practice.
- ~~6. f.~~ If such promotional practice is offered or granted, in whole or in part, by an affiliate or other person, the identity of such affiliate or person and the nature of such party's participation shall be disclosed.
- ~~7. g.~~ The expiration date of the practice, if known, or an estimated date.
- ~~8. h.~~ Other information relevant to a complete understanding of such promotional practice.
- ~~9. i.~~ The date or estimated date of the beginning of such promotional practices.

~~Any promotional practice proposed subsequent to the initial listing outlined above shall be described in writing by the utility and such documentation provided the board no less than 30 days prior to its expected implementation.~~

~~16.7(1) Annual report. Rescinded IAB 11/6/96, effective 12/11/96.~~

**16.7(2)** Any promotional practice, or program which includes a promotional practice, designed to develop or implement programs that promote energy efficiency and are part of the utility's energy

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efficiency plan developed pursuant to ~~199 IAC 35~~ 199—Chapter 35 shall be deemed not to be a promotional practice for purposes of this rule and shall be exempt from the requirements of this rule.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/13/17.

**ARC 3317C**

## **UTILITIES DIVISION[199]**

### **Adopted and Filed**

Pursuant to Iowa Code sections 17A.4, 476.2, 476.8, 476.9 and 476.18, the Utilities Board (Board) gives notice that on August 23, 2017, the Board issued an order in Docket No. RMU-2016-0017, In re: Review of Reorganization Rules [199 IAC Chapter 32], “Order Adopting Amendments,” amending the Board’s Chapter 32 reorganization rules.

The Board is undertaking a comprehensive review of its rules and, as part of that review, is attempting to make the rules more readable, streamline reporting requirements in the rules, ensure the rules are current, and transition away from providing forms within the rules. The intent of these amendments is to clarify the rules to promote ease of access for those interacting with the Board.

The amendments to Chapter 32 clarify the revenue limits for utilities operating in more than one regulated line of business, such as both natural gas and electricity. The amendments also clarify that multiple corporate officers’ time may be accounted for and allocated rather than a single officer’s time, and eliminate the provision that parties who fail to file testimony and exhibits within the required time frame may still be allowed to present testimony and exhibits at a subsequent hearing.

Notice of Intended Action was published in the June 21, 2017, Iowa Administrative Bulletin as **ARC 3120C**. The Board received joint comments from the Iowa Association of Municipal Utilities and the Iowa League of Cities on July 5, 2017. The two groups opposed the adoption of proposed rule 199—32.10(476) and did not comment on the other amendments. On July 11, 2017, the Board received comments from the Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice; the Iowa Rural Water Association (IRWA); and Iowa-American Water Company (Iowa-American). OCA stated it had no objections to the proposed rules. IRWA objected to proposed rule 199—32.10(476) and did not comment on the other amendments. Iowa-American filed comments proposing some clarifying language with respect to proposed rule 199—32.10(476) but did not comment on the other amendments in the Notice of Intended Action.

After further review in light of the stakeholder comments, the Board did not adopt proposed rule 199—32.10(476) of the Notice of Intended Action. The amendments in Items 1 through 5 were adopted as published under Notice of Intended Action.

The order approving this Adopted and Filed rule making can be found on the Board’s Electronic Filing System Web site, <http://efs.iowa.gov>, in Docket No. RMU-2016-0017.

After analysis and review of the rule making, the Board concludes that these amendments will not have a detrimental effect on jobs in Iowa.

These amendments are intended to implement Iowa Code sections 17A.4, 476.2, 476.6, 476.76, and 476.77.

These amendments will become effective October 18, 2017.

The following amendments are adopted.

ITEM 1. Amend subrule 32.2(1) as follows:

**32.2(1)** Unless an application pursuant to Iowa Code section 476.77 and this chapter has been filed or a waiver obtained pursuant to ~~199 IAC 1.3(17A,474,476,78GA,HF2206)~~ 199—1.3(17A,474,476,78GA,HF2206), no public utility shall acquire or lease assets, directly or indirectly, with a value in excess of 3 percent of the utility’s Iowa jurisdictional utility revenue during the immediately preceding calendar year or \$5 million, whichever is greater. For purposes of this



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subrule and subrule 32.2(2), “value” means the greater of market value or book value. For utilities with more than one regulated line of business, the utility revenue limit shall be calculated using the revenue of the specific line of utility business involved in the transaction, not the combined utility revenues.

ITEM 2. Amend subrule 32.2(2) as follows:

**32.2(2)** Unless an application pursuant to Iowa Code section 476.77 and this chapter has been filed or a waiver obtained pursuant to rule ~~32.8(476)~~ 199—32.8(476), no public utility shall sell or otherwise dispose of assets, directly or indirectly, with a value in excess of 3 percent of the utility’s Iowa jurisdictional utility revenue during the immediately preceding calendar year or \$5 million, whichever is greater. However, for utilities for which the 3 percent limit is greater than \$5 million, if the assets being sold or otherwise disposed of are used in the generation or delivery of utility services to Iowa consumers, an application or a waiver is required if the assets have a value in excess of \$10 million. For utilities with more than one regulated line of business, the utility revenue limit shall be calculated using the revenue of the specific line of utility business involved in the transaction, not the combined utility revenues.

ITEM 3. Amend rule 199—32.3(476) as follows:

**199—32.3(476) Declaratory ~~rulings~~ orders.** Any person may request a determination as to whether the proposed action ~~it proposes~~ would constitute a reorganization or whether the assets involved would constitute a substantial part of a public utility’s assets, as defined in Iowa Code section 476.72 and these rules, by filing a petition for declaratory ~~ruling order~~, as set out in 199—Chapter 4.

ITEM 4. Amend subparagraph **32.4(2)“e”(1)** as follows:

(1) Accounting for and allocating ~~officer’s~~ officers’ time between the public utility and any affiliates, and

ITEM 5. Amend subrule 32.9(1) as follows:

**32.9(1)** Within 40 days after a proposal for reorganization and supporting testimony is filed, the consumer advocate and any intervenors shall file any written testimony and exhibits. This will allow the board an opportunity to consider the testimony and exhibits prior to the 50-day deadline for issuing a notice of hearing. ~~However, failure to file written testimony and exhibits within 40 days shall not preclude the consumer advocate and any intervenors from presenting witness testimony and exhibits at any hearing ordered by the board to be held with respect to the proposed reorganization.~~

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