



IOWA ADMINISTRATIVE BULLETIN

Published Biweekly

VOLUME XLV
September 21, 2022

NUMBER 6
Pages 517 to 636

CONTENTS IN THIS ISSUE

Pages 527 to 635 include ARC 6519C to ARC 6546C

AGENDA

Administrative rules review committee 521

ALL AGENCIES

Agency identification numbers 525
Citation of administrative rules 519
Schedule for rule making 520

CHILD ADVOCACY BOARD[489]

INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella"

Notice, Five-year review of rules,
amendments to chs 1 to 5 ARC 6544C 527

ECONOMIC DEVELOPMENT AUTHORITY[261]

Notice, Historic preservation tax credit,
amendments to ch 49 ARC 6546C 539

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]

Notice, Iowa comprehensive plan, 9.1 to
9.4 ARC 6527C 554

Notice, 911 telephone systems, 10.2,
10.4(2), 10.9(3)"f," 10.11(1)"c," 10.14
ARC 6528C 557

Notice, Repair, calibration, and
maintenance of radiological
monitoring, detection, and survey
equipment, rescind ch 11 ARC 6535C 563

Notice, Mass notification and emergency
messaging system, 15.3(1), 15.4 ARC 6534C 564

Notice, Report submissions, 104.1, 104.2
ARC 6526C 566

HUMAN SERVICES DEPARTMENT[441]

Notice, Services in psychiatric
institutions—five-year review of
rules, amendments to ch 85 ARC 6529C 567

Notice, Foster parent training—five-year
review of rules, 117.1, 117.3, 117.5(3),
117.7, 117.8, 117.9(1) ARC 6536C 571

Notice, IV-A emergency assistance
program—definitions, residence,
services, 133.1, 133.3, 133.4 ARC 6530C 573

Notice, In-home health-related
care—nursing supervision, program
implementation, 177.1 to 177.11 ARC 6531C 576

IOWA FINANCE AUTHORITY[265]

Notice, 9 percent qualified allocation
plan, 12.1(2), 12.2(2) ARC 6543C 583

IOWA PUBLIC INFORMATION BOARD[497]

Notice, Complaints—administrative
resolution; contested
cases—withdrawal, 2.1(6), 4.17
ARC 6540C 585

LABOR SERVICES DIVISION[875]

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

Notice, Boiler and pressure vessel
codes—adoption by reference, 91.1(6),
91.8, 91.10 ARC 6541C 586

LAW ENFORCEMENT ACADEMY[501]

Notice, Certification; training, 2.1(11),
3.2, 3.4(1), 3.5(1), 4.1(1), 4.2(1), 9.1,
9.2(2), 10.1 ARC 6545C 588

MANAGEMENT DEPARTMENT[541]

Filed, Suspension and reinstatement of
state funds, ch 16 **ARC 6524C** 624

PHARMACY BOARD[657]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Notice, Temporary designation of
controlled substances, 10.39(6) **ARC 6532C**. 592

Notice, Iowa prescription monitoring
program—definition of “opioid
antagonist,” advisory council, 37.2,
37.4 **ARC 6533C** 593

Filed, Temporary designation of
controlled substances, 10.39 **ARC 6521C** 626

Filed, Compounding practices—records,
20.23 **ARC 6522C** 628

**PUBLIC EMPLOYMENT RELATIONS
BOARD[621]**

Filed Emergency After Notice,
Retention and recertification
elections—submission of voter
eligibility lists, 15.1, 15.2(2), 15.5
ARC 6520C 620

PUBLIC HEARINGS

Summarized list 524

RACING AND GAMING COMMISSION[491]

INSPECTIONS AND APPEALS DEPARTMENT[481]“umbrella”

Notice, Alternative simulcast operators;
waiver summary reports; conduct
accountability; occupational licenses;
vendor licenses; advance deposit
wagering; physician assistants,
amendments to chs 1, 5, 6, 8 **ARC 6542C** 595

REVENUE DEPARTMENT[701]

Notice, Mandatory electronic filing of tax
returns for certain taxpayers, 8.7 **ARC 6539C** . . . 600

Notice, Withholding, 38.1(8), 46.1(1)“c,”
46.3, 46.5 **ARC 6538C** 603

Notice, Rent reimbursement
program—transition period, 73.35
ARC 6537C 612

Filed, Application of two-tier assessment
limitation, 71.29 **ARC 6525C** 629

TRANSPORTATION DEPARTMENT[761]

Notice, Commercial driver
licensing—third-party testing,
607.30, 607.31 **ARC 6519C** 614

TREASURER OF STATE

Notice—Public funds interest rates 618

USURY

Notice 619

VETERINARY MEDICINE BOARD[811]

Filed, Veterinarian/client/patient
relationships, 1.4, 12.1 **ARC 6523C**. 632

PREFACE

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

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

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

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

JACK EWING, Administrative Code Editor
Publications Editing Office (Administrative Code)

Telephone: 515.281.6048
Telephone: 515.281.3355

Email: Jack.Ewing@legis.iowa.gov
Email: AdminCode@legis.iowa.gov

CITATION of Administrative Rules

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

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

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

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

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

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

Schedule for Rule Making 2022

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

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
8	Friday, September 30, 2022	October 19, 2022
9	Friday, October 14, 2022	November 2, 2022
10	Wednesday, October 26, 2022	November 16, 2022

PLEASE NOTE:

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

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

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

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

The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, October 11, 2022, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa. For more information, contact Jack Ewing at jack.ewing@legis.iowa.gov. The following rules will be reviewed:

NOTE: See also Supplemental Agenda published in the October 5, 2022, Iowa Administrative Bulletin.

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Pesticides—registration fees, 45.3	Notice	ARC 6500C	9/7/22
Research facilities, 67.18	Notice	ARC 6517C	9/7/22
Federal Wholesome Meat Act regulations, voluntary inspections of exotic animals—adoption by reference, 76.2, 76.13	Notice	ARC 6499C	9/7/22
E-15 access standard, ch 86	Notice	ARC 6516C	9/7/22

CHILD ADVOCACY BOARD[489]

INSPECTIONS AND APPEALS DEPARTMENT[481]“umbrella”			
Five-year review of rules, amendments to chs 1 to 5	Notice	ARC 6544C	9/21/22

DENTAL BOARD[650]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”			
Dental assistants—trainee status, registration, dental radiography qualification, amendments to chs 1, 11, 15, 20, 22	Notice	ARC 6514C	9/7/22
Expanded functions, 23.1 to 23.7	Notice	ARC 6515C	9/7/22
Board-approved specialty—orofacial pain, 26.4(2)“b”	Notice	ARC 6513C	9/7/22

ECONOMIC DEVELOPMENT AUTHORITY[261]

Historic preservation tax credit, amendments to ch 49	Notice	ARC 6546C	9/21/22
Iowa energy center—purpose, quorum, electronic meetings, 403.1, 403.3	Filed	ARC 6492C	9/7/22

ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]“umbrella”			
Definition of “storm water discharge associated with industrial activity”; NPDES general permit nos. 1 through 4, 60.2, 64.15	Notice	ARC 6501C	9/7/22
NPDES general permit nos. 5 through 9, 64.15	Filed	ARC 6493C	9/7/22

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]

Iowa comprehensive plan, 9.1 to 9.4	Notice	ARC 6527C	9/21/22
911 telephone systems, 10.2, 10.4(2), 10.9(3)“f,” 10.11(1)“c,” 10.14	Notice	ARC 6528C	9/21/22
Repair, calibration, and maintenance of radiological monitoring, detection, and survey equipment, rescind ch 11	Notice	ARC 6535C	9/21/22
Mass notification and emergency messaging system, 15.3(1), 15.4	Notice	ARC 6534C	9/21/22
Report submissions, 104.1, 104.2	Notice	ARC 6526C	9/21/22

HUMAN SERVICES DEPARTMENT[441]

Collection of public assistance debts—five-year review of rules, 11.1, 11.2(2), 11.3, 11.5	Filed	ARC 6495C	9/7/22
Family investment program, refugee cash assistance—five-year review of rules, amendments to chs 40, 41, 46, 60	Filed	ARC 6496C	9/7/22
Refugee services program, amendments to ch 61	Notice	ARC 6512C	9/7/22
Services in psychiatric institutions—five-year review of rules, amendments to ch 85	Notice	ARC 6529C	9/21/22
Certification of adoption investigators—dependent adult abuse, record checks and reports, forms, 107.4(5), 107.5(2)“a”(6), 107.8(1)	Filed	ARC 6497C	9/7/22
Family-life homes—five-year review of rules, amendments to ch 111	Filed	ARC 6498C	9/7/22
Foster parent training—five-year review of rules, 117.1, 117.3, 117.5(3), 117.7, 117.8, 117.9(1)	Notice	ARC 6536C	9/21/22
Service administration general provisions—five-year review of rules, 130.2(4), 130.3(1), 130.4, 130.6, 130.7	Filed	ARC 6502C	9/7/22
Social casework—adverse actions, 131.5	Filed	ARC 6503C	9/7/22
IV-A emergency assistance program—definitions, residence, services, 133.1, 133.3, 133.4	Notice	ARC 6530C	9/21/22
Interstate compact on the placement of children, amendments to ch 142	Notice	ARC 6509C	9/7/22
Interstate compact on juveniles, amendments to ch 143	Notice	ARC 6510C	9/7/22
Adoption opportunity grant program, rescind ch 160	Filed	ARC 6504C	9/7/22
Quality improvement initiative grants, 166.2, 166.3	Notice	ARC 6511C	9/7/22

In-home health-related care—nursing supervision, program implementation, 177.1 to 177.11

Notice **ARC 6531C** 9/21/22
 Aftercare services program—five-year review of rules, 187.2(3), 187.3, 187.4(1) Filed **ARC 6505C**..... 9/7/22
 Iowa adoption exchange—definitions, process, 203.1, 203.2 Filed **ARC 6506C** 9/7/22
 Guardianship subsidy agreements—five-year review of rules, amendments to ch 204 Filed **ARC 6507C**..... 9/7/22

INSPECTIONS AND APPEALS DEPARTMENT[481]

Food assistance program—change of name to supplemental nutrition assistance program
 (SNAP); fraud control; debt recovery, amend chs 22, 72, 90; rescind ch 75 Filed **ARC 6518C**..... 9/7/22

IOWA FINANCE AUTHORITY[265]

9 percent qualified allocation plan, 12.1(2), 12.2(2) Notice **ARC 6543C** 9/21/22

IOWA PUBLIC INFORMATION BOARD[497]

Complaints—administrative resolution; contested cases—withdrawal, 2.1(6), 4.17
Notice **ARC 6540C** 9/21/22

LABOR SERVICES DIVISION[875]

WORKFORCE DEVELOPMENT DEPARTMENT[871]“umbrella”

Boiler and pressure vessel codes—adoption by reference, 91.1(6), 91.8, 91.10 Notice **ARC 6541C** 9/21/22

LAW ENFORCEMENT ACADEMY[501]

Certification; training, 2.1(11), 3.2, 3.4(1), 3.5(1), 4.1(1), 4.2(1), 9.1, 9.2(2), 10.1 Notice **ARC 6545C** 9/21/22

MANAGEMENT DEPARTMENT[541]

Suspension and reinstatement of state funds, ch 16 Filed **ARC 6524C**..... 9/21/22

PHARMACY BOARD[657]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Temporary designation of controlled substances, 10.39 Filed **ARC 6521C**..... 9/21/22
 Temporary designation of controlled substances, 10.39(6) Notice **ARC 6532C** 9/21/22
 Compounding practices—records, 20.23 Filed **ARC 6522C**..... 9/21/22
 Iowa prescription monitoring program—definition of “opioid antagonist,” advisory council,
 37.2, 37.4 Notice **ARC 6533C** 9/21/22

PUBLIC EMPLOYMENT RELATIONS BOARD[621]

Retention and recertification elections—submission of voter eligibility lists, 15.1, 15.2(2),
 15.5 Filed **Emergency After Notice** **ARC 6520C** 9/21/22

RACING AND GAMING COMMISSION[491]

INSPECTIONS AND APPEALS DEPARTMENT[481]“umbrella”

Alternative simulcast operators; waiver summary reports; conduct accountability;
 occupational licenses; vendor licenses; advance deposit wagering; physician assistants,
 amendments to chs 1, 5, 6, 8 Notice **ARC 6542C**..... 9/21/22

REVENUE DEPARTMENT[701]

Sales, use, and excise tax, amend chs 4, 27, 34, 67 to 70, 81 to 86, 91, 97, 103, 107, 109,
 120, 122, 150, 211 to 216, 223, 224, 226, 230, 231, 235, 237 to 240, 242, 250; adopt chs
 210, 212, 216, 258; rescind chs 16, 108, 241 Filed **ARC 6508C**..... 9/7/22
 Local government services division, 6.1(2), 70.6(1)“b,” 71.14(2), 72.18(8), 78.6(1)“b,”
 122.2 Notice **ARC 6494C** 9/7/22
 Mandatory electronic filing of tax returns for certain taxpayers, 8.7 Notice **ARC 6539C**..... 9/21/22
 Withholding, 38.1(8), 46.1(1)“c,” 46.3, 46.5 Notice **ARC 6538C** 9/21/22
 Application of two-tier assessment limitation, 71.29 Filed **ARC 6525C** 9/21/22
 Rent reimbursement program—transition period, 73.35 Notice **ARC 6537C** 9/21/22

TRANSPORTATION DEPARTMENT[761]

Intermodal pilot project program, rescind ch 201 Filed **ARC 6488C** 9/7/22
 Vehicle recyclers—licensing, regulation, 400.23, 431.1 to 431.3 Filed **ARC 6489C**..... 9/7/22
 Motor vehicle leasing licenses—contact information, definition of “engage in the business,”
 430.1 Filed **ARC 6490C**..... 9/7/22
 Transportation network companies, 540.3, 540.4, 540.6, 540.9(2), 540.11 Filed **ARC 6491C** 9/7/22
 Commercial driver licensing—third-party testing, 607.30, 607.31 Notice **ARC 6519C** 9/21/22

VETERINARY MEDICINE BOARD[811]

Veterinarian/client/patient relationships, 1.4, 12.1 Filed ARC 6523C 9/21/22

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Unemployment insurance benefits—exceptions, 24.22(3)“c” Filed ARC 6487C 9/7/22

ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

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

Senator Waylon Brown
2415 Highway 218
Osage, Iowa 50461

Senator Julian Garrett
P.O. Box 493
Indianola, Iowa 50125

Senator Jesse Green
2344 360th Street
Harcourt, Iowa 50544

Senator Robert Hogg
P.O. Box 1361
Cedar Rapids, Iowa 52406

Senator Pam Jochum
2368 Jackson Street
Dubuque, Iowa 52001

Jack Ewing
Administrative Code Editor
Capitol
Des Moines, Iowa 50319
Telephone: 515.281.6048
Fax: 515.281.8451
Email: Jack.Ewing@legis.iowa.gov

Representative Mike Boussetot
Ankeny, Iowa
House District 37

Representative Megan Jones
4470 Highway 71
Sioux Rapids, Iowa 50585

Representative Amy Nielsen
North Liberty, Iowa

Representative Rick Olson
3012 East 31st Court
Des Moines, Iowa 50317

Representative Mike Sexton
2202 Ogden Avenue
Rockwell City, Iowa 50579

Nate Ristow
Administrative Rules Coordinator
Governor's Ex Officio Representative
Capitol, Room 18
Des Moines, Iowa 50319
Telephone: 515.281.5211

ENVIRONMENTAL PROTECTION COMMISSION[567]

Definition of “storm water discharge associated with industrial activity”; NPDES general permit nos. 1 through 4, 60.2, 64.15
IAB 9/7/22 **ARC 6501C**

Via video/conference call
Zoom link:
[us02web.zoom.us/meeting/register/tZApkOmlrZWwqH9N8GgCQEOIaQyhpDvZ6Ibn8](https://us02web.zoom.us/join?pwd=ZApkOmlrZWwqH9N8GgCQEOIaQyhpDvZ6Ibn8)

September 28, 2022
2 p.m.

PHARMACY BOARD[657]

Iowa prescription monitoring program—definition of “opioid antagonist,” advisory council, 37.2, 37.4
IAB 9/21/22 **ARC 6533C**

Health Professions Board Room
400 S.W. 8th St., Suite H
Des Moines, Iowa

October 12, 2022
10 a.m.

RACING AND GAMING COMMISSION[491]

Alternative simulcast operators; waiver summary reports; conduct accountability; occupational licenses; vendor licenses; advance deposit wagering; physician assistants, amendments to chs 1, 5, 6, 8
IAB 9/21/22 **ARC 6542C**

Commission Office, Suite 100
1300 Des Moines St.
Des Moines, Iowa

October 11, 2022
9 a.m.

REVENUE DEPARTMENT[701]

Mandatory electronic filing of tax returns for certain taxpayers, 8.7
IAB 9/21/22 **ARC 6539C**

Via video/conference call
Contact Benjamin Clough
Email: ben.clough@iowa.gov

October 12, 2022
1 to 2 p.m.
(If requested)

Withholding, 38.1(8), 46.1(1)“c,” 46.3, 46.5
IAB 9/21/22 **ARC 6538C**

Via video/conference call
Contact Kurt Konek
Email: kurt.konek@iowa.gov

October 11, 2022
12:30 to 1:30 p.m.
(If requested)

Rent reimbursement program—transition period, 73.35
IAB 9/21/22 **ARC 6537C**

Via video/conference call
Contact Nick Behlke
Email: nick.behlke@iowa.gov

October 11, 2022
1 to 2 p.m.
(If requested)

TRANSPORTATION DEPARTMENT[761]

Commercial driver licensing—third-party testing, 607.30, 607.31
IAB 9/21/22 **ARC 6519C**

Via conference call
Contact Tracy George
Email: tracy.george@iowadot.us

October 13, 2022
10 a.m.
(If requested)

The following list will be updated as changes occur.

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

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

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

ADMINISTRATIVE SERVICES DEPARTMENT[11]
 AGING, DEPARTMENT ON[17]
 AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]
 Soil Conservation and Water Quality Division[27]
 ATTORNEY GENERAL[61]
 AUDITOR OF STATE[81]
 BEEF CATTLE PRODUCERS ASSOCIATION, IOWA[101]
 BLIND, DEPARTMENT FOR THE[111]
 CAPITAL INVESTMENT BOARD, IOWA[123]
 CHIEF INFORMATION OFFICER, OFFICE OF THE[129]
 OMBUDSMAN[141]
 CIVIL RIGHTS COMMISSION[161]
 COMMERCE DEPARTMENT[181]
 Alcoholic Beverages Division[185]
 Banking Division[187]
 Credit Union Division[189]
 Insurance Division[191]
 Professional Licensing and Regulation Bureau[193]
 Accountancy Examining Board[193A]
 Architectural Examining Board[193B]
 Engineering and Land Surveying Examining Board[193C]
 Landscape Architectural Examining Board[193D]
 Real Estate Commission[193E]
 Real Estate Appraiser Examining Board[193F]
 Interior Design Examining Board[193G]
 Utilities Division[199]
 CORRECTIONS DEPARTMENT[201]
 Parole Board[205]
 CULTURAL AFFAIRS DEPARTMENT[221]
 Arts Division[222]
 Historical Division[223]
 EARLY CHILDHOOD IOWA STATE BOARD[249]
 ECONOMIC DEVELOPMENT AUTHORITY[261]
 City Development Board[263]
 IOWA FINANCE AUTHORITY[265]
 EDUCATION DEPARTMENT[281]
 Educational Examiners Board[282]
 College Student Aid Commission[283]
 Higher Education Loan Authority[284]
 Iowa Advance Funding Authority[285]
 Libraries and Information Services Division[286]
 Public Broadcasting Division[288]
 School Budget Review Committee[289]
 EGG COUNCIL, IOWA[301]
 ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]
 EXECUTIVE COUNCIL[361]
 FAIR BOARD[371]
 HUMAN RIGHTS DEPARTMENT[421]
 HUMAN SERVICES DEPARTMENT[441]
 INSPECTIONS AND APPEALS DEPARTMENT[481]
 Employment Appeal Board[486]
 Child Advocacy Board[489]
 Racing and Gaming Commission[491]
 State Public Defender[493]
 IOWA PUBLIC EMPLOYEES’ RETIREMENT SYSTEM[495]

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

ARC 6544C

CHILD ADVOCACY BOARD[489]**Notice of Intended Action****Proposing rule making related to five-year review of rules
and providing an opportunity for public comment**

The Child Advocacy Board hereby proposes to amend Chapter 1, "Purpose and Function," Chapter 2, "Rules and Operation for the State Board," Chapter 3, "Local Foster Care Review Boards," Chapter 4, "Court Appointed Special Advocate Program," and Chapter 5, "Public Records and Fair Information Practices," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 237.18.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 237.18 and 2022 Iowa Acts, House Files 2390, 2252, and 2507.

Purpose and Summary

A comprehensive review of Chapters 1 through 5 was performed in accordance with the requirements in Iowa Code section 17A.7(2) and the enactment of 2022 Iowa Acts, House Files 2390 and 2252. The proposed amendments update rules in accordance with current practice and legislative changes, eliminate redundancy, and make rules more user-friendly.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to Iowa Code section 17A.9A.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Board no later than 4:30 p.m. on October 11, 2022. Comments should be directed to:

Ashleigh Hackel
Iowa Department of Inspections and Appeals
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319-0083
Phone: 515.281.4567
Email: ashleigh.hackel@dia.iowa.gov

CHILD ADVOCACY BOARD[489](cont'd)

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rule 489—1.1(237) as follows:

489—1.1(237) Purpose. The child advocacy board is established by Iowa Code section 237.16 to carry out all duties described in Iowa Code section 237.18. The board is charged with the responsibility of establishing a foster care registry, establishing local review boards to review cases of children in foster care, establishing a training program for members of the state board members, establishing procedures and protocols for administering the local foster care review board and court appointed special advocate program, receiving and administering funds received for the state board’s programs and annually reporting findings and making recommendations to the governor, ~~general assembly, the supreme court, the chief judge of each judicial district,~~ the department, and child-placing agencies, and the state court administrator for dissemination to the supreme court and the chief judge of each judicial district.

1.1(1) Location. The child advocacy board is located in the Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083; telephone ~~(515)281-7621~~ (866)448-4608. Office hours are 8 a.m. to 4:30 p.m., Monday through Friday, except on state holidays. The child advocacy board is created within the department of inspections and appeals.

1.1(2) Definitions. The following definitions apply to the rules of the child advocacy board.

“*Case permanency plan*” means the same as defined in Iowa Code section 232.2(4), except the plan shall also include ~~all of the following~~, but not be limited to:

1. ~~The efforts to place the child with a relative~~ Time frames to meet the stated permanency goal and short-term objectives.

2. ~~The rationale for an out-of-state placement, and the efforts to prevent such placement, if the child has been placed out of state~~ care and services that will be provided to the child, biological parents, the child’s fictive kin, and foster parents.

3. ~~Time frames to meet the stated permanency goal and short-term objectives~~ The efforts to place the child with a relative or fictive kin.

4. The rationale for an out-of-state placement, and the efforts to prevent such placement, if the child has been placed out of state.

“*Child receiving foster care*” means a child defined in Iowa Code section ~~234.1~~ 237.15(2) who is described by any of the following circumstances:

1. to 4. No change.

“*Court appointed special advocate*” means ~~the same as defined in Iowa Code section 232.2~~ a person duly certified by the child advocacy board created in Iowa Code section 237.16 for participation in the court appointed special advocate program and appointed by the court to carry out the duties pursuant to Iowa Code section 237.24 as enacted by 2022 Iowa Acts, House File 2507, section 65.

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

“*Family*” means the social unit consisting of the child and the biological or adoptive parent, stepparent, brother, sister, stepbrother, stepsister, and grandparent of the child.

CHILD ADVOCACY BOARD[489](cont'd)

“Fictive kin” means an adult person who is not a relative of a child but who has an emotionally positive significant relationship with the child or the child’s family.

“Local board” means a local citizen foster care review board created pursuant to Iowa Code section 237.19.

“Person or court responsible for the child” means the department, including but not limited to the department of human services, agency, or individual who is the guardian of a child by court order issued by the juvenile or district court and has the responsibility of the care of the child, or the court having jurisdiction over the child.

“State board” means the child advocacy board created pursuant to Iowa Code section 237.16.

ITEM 2. Amend subrule 2.1(3), introductory paragraph, as follows:

2.1(3) Meetings. The state board shall meet at least twice a year. Notice of a meeting is published at least seven days in advance of the meeting and will be ~~mailed~~ provided to interested persons upon request. The notice shall contain the specific date, time and place of the meeting. The agenda will be made available to any interested person not less than seven days in advance of the meeting. All meetings will be open to the public, pursuant to Iowa Code chapter 21, unless a closed session is voted by a quorum. The operation of the state board meetings will be governed by the following rules of procedure.

ITEM 3. Amend rule 489—2.2(237) as follows:

489—2.2(237) Administrator.

2.2(1) The state board appoints an administrator for the child advocacy board. The administrator is responsible for the ongoing administration of the state and local boards’ activities and of the court appointed special advocate program.

2.2(2) The administrator:

~~1. a.~~ Applies for and administers funds necessary for operations of the child advocacy board and the foster care review board and the court appointed special advocate program.

~~2. b.~~ Employs, discharges, trains, and supervises foster care review board and court appointed special advocate program employees.

~~3. c.~~ Develops and implements policies and procedures needed to implement requirements of federal law and regulations and state law and administrative rules.

~~4. d.~~ Develops and recommends administrative rules for promulgation by the state board as needed to govern the operation of the state board, the foster care review board program and the court appointed special advocate program.

~~5. e.~~ Ensures training is provided for state and local board members, court appointed special advocates and coaches and any other volunteers supporting the state board’s programs.

~~6. f.~~ Ensures that relationships are developed and maintained between the local board and judges, juvenile court referees, local departments, juvenile court services, and advocacy groups.

~~7. g.~~ Coordinates efforts to ensure community awareness of state and local boards and the court appointed special advocate program.

~~8. h.~~ Works closely with allied agencies and associations to ensure that efforts relating to state and local boards and the court appointed special advocate program are coordinated and consistent.

~~9. — Develops a management information system and procedures which provide feedback to local agencies serving the children to be reviewed, schedules for review, and recommendations following reviews and which provide reports of court appointed special advocate observations, findings, and recommendations to the court and parties to the child’s case to which the advocate is assigned.~~

~~10. — Designs forms and specifies the means by which foster care agencies may transmit case information to local boards.~~

This rule is intended to implement Iowa Code sections 17A.3 and 237.18(5).

ITEM 4. Amend rule 489—2.3(237) as follows:

489—2.3(237) Foster care registry. The state board shall establish a registry of the placements of all children receiving foster care. The ~~department~~ agency responsible for placement shall notify the state

CHILD ADVOCACY BOARD[489](cont'd)

~~board of each placement within five working days of the department's notification of the placement in accordance with written protocols adopted pursuant to Iowa Code section 237.16(4) as enacted by 2022 Iowa Acts, House File 2390, section 3. The notification to the state board shall include information identifying the child receiving foster care and placement information for that child.~~

~~Within 30 days of the placement or 2 days after the dispositional hearing, the agency responsible for the placement shall submit the case permanency plan to the state board. All subsequent revisions of the case permanency plan shall be submitted when the revisions are developed.~~

This rule is intended to implement Iowa Code sections 17A.3 and 237.17.

ITEM 5. Amend rule 489—3.1(237) as follows:

489—3.1(237) Local boards. The child advocacy board shall establish local foster care boards in judicial districts as funding is made available for that purpose throughout the state. The number of local boards needed and established shall be determined by the child advocacy board based on the number of children in foster care and available funding. A sufficient number of boards will be established to ensure that no board shall carry a caseload larger than 100 cases.

3.1(1) The child advocacy board is responsible under the statute for establishment of policy and procedures which must be consistent with the provisions of the statute Iowa Code. Local boards are required to comply with policies and procedures. If a local board does not agree with a policy or procedure, the local board may bring that issue to the child advocacy board for discussion and request a change by the board. If the child advocacy board upholds the policy, local boards must comply.

3.1(2) and 3.1(3) No change.

This rule is intended to implement Iowa Code sections 17A.3 and 237.19.

ITEM 6. Amend rule 489—3.2(237) as follows:

489—3.2(237) Membership.

3.2(1) The child advocacy board delegates responsibility to the administrator to develop and for local board coordinators to implement an application, recruitment, screening and training process for appointments to vacated local board positions:

~~a. The process will culminate in includes the coordinator's preparation of a written selection rationale statement about the prospective appointee to the child advocacy board conducting a personal interview with the applicant, obtaining character references, and completing background checks on the applicant.~~

~~b. The process will include consultation with the chief judge for the court district served by the local board between the coordinator and coordinator's direct supervisor.~~

~~c. The administrator will submit each written selection rationale statement electronically to all child advocacy board members no later than 30 calendar days prior to the beginning date of the local board member's prospective term. If a board member vacates the position mid-term, the selection process and resulting written selection rationale statement shall be submitted to the child advocacy board as soon as practicable.~~

~~d. Within 15 calendar days after receipt of the written selection rationale statement, any child advocacy board member may request a telephonic child advocacy board meeting to review a prospective appointment. During the meeting, child advocacy board members may raise questions and then vote for the approval or disapproval of the prospective appointment.~~

~~e. If no meeting is requested, the prospective local board member is deemed approved by the child advocacy board.~~

3.2(2) A person employed by the department of inspections and appeals, the department of human services, or the judicial department, an employee of an agency with which the department of human services contracts for services for children under foster care, a foster parent providing foster care, or a child-placing agency shall not serve on a local board. The child advocacy board shall provide the names of the members of the local boards to the department of human services.

3.2(3) No change.

CHILD ADVOCACY BOARD[489](cont'd)

3.2(4) The term of a local board member's appointment shall not exceed ~~three~~ four years. The child advocacy board shall fix the tenure of individual appointments so that no more than one-third of the membership's terms expire in a given year. A local board member may serve continuous successive terms.

3.2(5) The administrator shall develop a local board member evaluation process. The local board coordinator shall complete the evaluation process at least once for each local board member during the member's ~~three-year~~ four-year term. The local board coordinator, in consultation with the coordinator's direct supervisor, shall consider the results of the evaluation when determining whether to ~~seek appointment~~ approve reappointment of the local board member to a successive term. ~~When submitting a written selection rationale statement to the child advocacy board for a local board member to serve a successive term, the local board coordinator shall include a summary of the evaluation results for that member.~~ Prior to any reappointment, the member shall complete updated background checks and a progress evaluation.

~~**3.2(6)** A local board member may serve continuous successive terms when selected and approved in accordance with this rule.~~

~~**3.2(7)**~~ **3.2(6)** A quorum ~~consists of at least three~~ is established when a majority of local review board members or alternates are present. A quorum shall be present before cases can be reviewed and recommendations ~~can be voted on~~ are formulated. ~~At least two members must be present during questioning of interested parties.~~

This rule is intended to implement Iowa Code sections 17A.3 and 237.19.

ITEM 7. Rescind and reserve rule ~~489—3.3(237).~~

ITEM 8. Amend subrules 3.4(1) to 3.4(3) as follows:

3.4(1) Local board reviews. ~~Every~~ At least every six months, ~~the local board shall review the case of each child receiving foster care assigned to the a local board by the child advocacy board shall be reviewed in accordance with the written protocols adopted pursuant to Iowa Code section 237.16(4) as enacted by 2022 Iowa Acts, House File 2390, section 3, to determine whether satisfactory progress is being made towards the goals of the case permanency plan pursuant to Iowa Code section 237.2. Whenever possible, reviews shall be conducted prior to court review of the cases.~~

a. Each review will consider the following:

(1) No change.

(2) The efforts of the agency responsible for the placement of the child to locate and provide services to the child's biological or adoptive parents, legal guardians, or fictive kin providing the majority of the child's daily food, lodging, and support.

(3) No change.

b. ~~The agency responsible for placement of the child or the local board may request an investigation of any problems, solutions, or alternatives with regard to the best interest of the child or of the state.~~

c. ~~The review shall include issues pertaining to the permanency plan and shall not include issues that do not pertain to the permanency plan.~~ Each review shall include any oral, written testimony of, or recorded statements submitted by any person notified pursuant to Iowa Code section 237.20(4), and may include oral testimony from those persons when determined to be relevant and material to the child's placement. Case relevant written testimony from other interested parties may also be considered by the board in its review.

d. A person who gives an oral testimony statement has the right to representation by counsel at the review. An oral statement may, upon the request of the testifier an interested party or upon motion of the local board, be given in a private setting when to do so would facilitate the presentation of evidence. Local board questions shall pertain to the permanency plan and shall not include issues that do not pertain to the permanency plan.

e. ~~A list of documents and information considered by the local board shall be provided to the child, the parents, their attorneys, judge, department, and the county attorney at their request.~~

CHILD ADVOCACY BOARD[489](cont'd)

3.4(2) Findings and recommendations. The local board shall submit the findings and recommendations to the appropriate court and the department within 15 days after the review. The findings and recommendations shall include the proposed date of the next review by the local board. The report to the court shall include information regarding the permanency plan and the progress in attaining the permanency goals. The local board shall send a copy of the findings and recommendations to the persons specified in subrule 3.4(3) within 15 days following the review.

3.4(3) The local board shall notify the following persons at least ten days prior to the review of the case of a child receiving foster care:

a. to d. No change.

e. The guardian ad litem of the foster child. The guardian ad litem shall be eligible for compensation through Iowa Code section ~~232.141, subsection 1, paragraph “b.”~~ 232.141(2).

f. to i. No change.

j. Any intervenor.

The notice shall include a statement that the person notified has the right to representation by counsel at the review.

ITEM 9. Rescind and reserve rule ~~489—3.5(237)~~.

ITEM 10. Amend subrule 3.6(1) as follows:

3.6(1) To be eligible for review, the child shall meet the requirements set forth in Iowa Code sections 234.1(2), 234.35 and ~~234.36; or be under the guardianship of the department; and the child receiving foster care has lived out of the home for more than six months during the last two years~~ 237.15.

ITEM 11. Amend subrule **4.1(1)**, definition of “Court appointed special advocate,” as follows:

“*Court appointed special advocate*” or “*CASA volunteer*” or “*CASA*” or “*advocate*” means a person who ~~has volunteered and~~ is duly certified by the child advocacy board for participation in the court appointed special advocate program and appointed by the court to represent the interest of a child in any judicial proceeding to which the child is a party or is called as a witness or relating to any dispositional order involving the child resulting from the proceeding. Unless otherwise enlarged or circumscribed by a court or juvenile court having jurisdiction over the child or by operation of law, the duties of a court appointed special advocate with respect to a child pursuant to Iowa Code section ~~232.2(22)“b”~~ 237.24 as enacted by 2022 Iowa Acts, House File 2390, section 15, shall include the following:

1. Conducting in-person interviews with the child every 30 days, if the child’s age is appropriate for the interview, and interviewing each parent, guardian, or other person having custody of the child, if authorized by counsel.

~~2. Conducting interviews with the child, if the child’s age is appropriate for the interview, prior to any court-ordered hearing.~~

~~3. 2.~~ Visiting the home, residence, or both home and residence of the child and any prospective home or residence of the child, including each time placement is changed.

~~4. 3.~~ Interviewing any person providing medical, mental health, social, educational, or other services to the child, ~~before any hearing referred to in paragraph “2” of this definition.~~

~~5. 4.~~ Obtaining firsthand knowledge, if possible, of the facts, circumstances, and parties involved in the matter in which the person court appointed special advocate is appointed.

~~6. 5.~~ Attending any depositions, hearings, and trial proceedings in the matter in which the person court appointed special advocate is appointed for the purpose of supporting the child and advocating for the child’s protection.

~~7. If the child is required to have a transition plan developed in accordance with the child’s case permanency plan and subject to review and approval of a transition committee under Iowa Code section 235.7, assisting the transition committee in development of the transition plan.~~

6. Assisting the transition committee in the development of a transition plan if the child’s case permanency plan calls for the development of a transition plan.

7. Submitting a written report to the juvenile court and to each of the parties identified in Iowa Code section 237.21(4) as amended by 2022 Iowa Acts, House File 2390, section 13, prior to each court hearing, unless otherwise ordered by the court. The report shall include, but not be limited to, the

CHILD ADVOCACY BOARD[489](cont'd)

identified strengths and concerns of the child and the child's family, along with recommendations about the child's placement and best interest.

ITEM 12. Adopt the following **new** definition of "Coach" in subrule **4.1(1)**:

"Coach" or "CASA coach" means a duly certified court appointed special advocate volunteer who has received additional training to assist the coordinator by overseeing facets of the court appointed special advocate's case work.

ITEM 13. Amend subrules 4.1(2) and 4.1(3) as follows:

4.1(2) Program mission. ~~The court appointed special advocate (CASA) program certifies and guides trained community volunteers to serve as an effective voice in court for abused and neglected children, strengthening efforts to ensure that each child is living in a safe, permanent and nurturing home. CASA of Iowa trains and supports community volunteers to advocate for a safe and permanent home for children who have experienced abuse and neglect, and works collaboratively to ensure their voice is heard.~~

4.1(3) Program goal. The CASA program will provide certified advocates for every ~~abused and neglected~~ child who has experienced abuse or neglect and for whom an advocate is authorized by an Iowa court.

ITEM 14. Rescind rule 489—4.2(237) and adopt the following **new** rule in lieu thereof:

489—4.2(237) Program requirements.

4.2(1) Establishing additional procedures and protocols.

a. The state board is responsible for establishment of procedures and protocols consistent with the Iowa Code.

b. Responsibility is delegated by the state board to the administrator to establish and submit to the board for approval a program policy and procedures manual that provides detailed guidance to child advocacy board staff and volunteers on application of these rules and the statutes that govern the operation of the court appointed special advocate program.

c. Child advocacy board staff and volunteers are required to comply with the protocols and procedures established by the state board and the provisions of the policy and procedures manual established by the administrator and approved by the board.

d. Day-to-day implementation of program policy is delegated by the state board to administrative staff. Staff is responsible for bringing questions about policy issues to the state board for clarification or changes of state policy.

4.2(2) Operation requirements.

a. The state board delegates responsibility to the administrator to hire, train, and manage staff throughout the state to implement CASA programming. The administrator shall determine the number of court appointed special advocates or coaches an individual coordinator may supervise.

b. The state board delegates responsibility to the administrator to provide additional information or guidance in the program's policy and procedures manual regarding the analysis of applicant qualifications and requirements for the final selection of CASA volunteers and coaches.

c. The coordinator is responsible for recruiting, screening, selecting, training and supervising court appointed special advocates.

d. The CASA selection is made in a manner that provides the best match available between the knowledge, skills, abilities, and availability of the advocate and the needs of the child. The assignments shall be made in a manner that avoids conflicts of interest, risk to the child's or advocate's safety, and jeopardy to the program's integrity.

e. Upon selection of the CASA who will serve on an individual case, the court and all interested parties are notified of the selection.

f. The selected CASA continues to serve on the case until the assignment is terminated by the court.

4.2(3) CASA advocate qualifications. Potential coaches and advocates shall meet the following qualifications:

a. Possess a genuine interest in advocating for children and their rights and needs.

CHILD ADVOCACY BOARD[489](cont'd)

- b. Have availability to complete mandatory duties.
- c. Commit to serve on a case until terminated by the court.
- d. Have the ability to interact with persons involved in the child welfare system.
- e. Have the ability to communicate effectively both in verbal and written presentations.
- f. Be at least 19 years of age or older.
- g. Not be a person employed by the state board, the department of human services, the district court, or an agency with which the department of human services contracts for services for children.
- h. Agree to use the child advocacy board's data management system for case work.

4.2(4) Application requirements for CASA volunteers. All CASA volunteer applicants shall complete the following requirements:

- a. Submit a program application to the program office.
- b. Provide the names and addresses of at least three nonrelative personal references.
- c. Participate in at least one personal interview with the local coordinator.
- d. Complete mandatory CASA preservice training.
- e. Take a confidentiality oath, administered by the presiding juvenile court judge, or designee, for whom the CASA will be performing official duties.
- f. Authorize a release of information for the CASA program to conduct a complete criminal history check of the applicant's background, including, but not limited to, checking records in the court jurisdiction in which the applicant has resided, state criminal records, Federal Bureau of Investigation or other national criminal database, sex offender registry, child abuse registry, and social security number verification. Applicants who refuse to sign required background check releases will not be considered for the CASA program.

g. Individuals with a negative background check finding may be approved to be a court appointed special advocate in accordance with the CASA of Iowa child abuse registry/criminal background check exemption policy.

This rule is intended to implement Iowa Code sections 17A.3 and 237.18.

ITEM 15. Rescind rule 489—4.3(237) and adopt the following **new** rule in lieu thereof:

489—4.3(237) Training. All child advocacy board staff and court appointed special advocate volunteers shall complete preservice and continuing education requirements.

This rule is intended to implement Iowa Code sections 17A.3 and 237.18.

ITEM 16. Amend rule 489—4.4(237) as follows:

489—4.4(237) Adherence to national guidelines. The National Court Appointed Special Advocate/Guardian ad Litem Association for Children has established a national quality assurance system for CASA programs. The primary goal of the system is to strengthen CASA organizations and support their efforts to provide high-quality child advocacy and achieve the maximum level of excellence. ~~The national CASA self-assessment tools, one for state organizations and another for local programs, are used once every four years to measure compliance with quality standards. The quality standards cover organizational mission; governance, ethics and compliance with laws and regulations; planning, assessment and evaluation; human resource management; financial and risk management; public relations; quality assurance; national CASA affiliation; new organization development; and inclusiveness and diversity. The child advocacy board has participated in this rigorous self-assessment process and has obtained certification of compliance with the standards. The board~~ CASA of Iowa shall continue to maintain compliance with the standards and, within the limits of available funding, shall deploy resources to maintain compliance in the future.

This rule is intended to implement Iowa Code sections 17A.3 and 237.18.

CHILD ADVOCACY BOARD[489](cont'd)

ITEM 17. Amend rule 489—4.5(237) as follows:

489—4.5(237) Children eligible for assignment of a court appointed special advocate. ~~The court appointed special advocate program~~ CASA of Iowa serves any child for whom the court appoints a court appointed special advocate as long as the resources to do so are available.

This rule is intended to implement Iowa Code sections 17A.3 and 237.18.

ITEM 18. Rescind **489—Chapter 5**, preamble.

ITEM 19. Rescind rule 489—5.1(22) and adopt the following **new** rule in lieu thereof:

489—5.1(22) Definitions. As used in this chapter:

“Agency” means the child advocacy board.

“Confidential record” means a record which is not available as a matter of right for examination and copying by members of the public under applicable provisions of law. Confidential records include records or information contained in records that the agency is prohibited by law from making available for examination by members of the public, and records or information contained in records that are specified as confidential by Iowa Code section 22.7, or other provision of law, but that may be disclosed upon order of a court, the lawful custodian of the record, or by another person duly authorized to release the record. Mere inclusion in a record of information declared confidential by an applicable provision of law does not necessarily make that entire record a confidential record.

“Custodian” means an agency or a person lawfully delegated authority by the agency to act for the agency in implementing Iowa Code chapter 22.

“Open record” means a record other than a confidential record.

“Personally identifiable information” in these rules means information about or pertaining to an individual in a record which identifies the individual and which is contained in a record system.

“Record” means the whole or a part of a “public record,” as defined in Iowa Code section 22.1, that is owned by or in the physical possession of this agency.

“Record system” means any group of records under the control of the agency from which a record may be retrieved by a personal identifier such as the name of an individual, number, symbol, or other unique retriever assigned to an individual.

ITEM 20. Adopt the following **new** rule 489—5.2(22):

489—5.2(22) Statement of policy. The purpose of this chapter is to facilitate broad public access to open records. It also seeks to facilitate sound agency determinations with respect to the handling of confidential records and the implementation of the fair information practices Act. This agency is committed to the policies set forth in Iowa Code chapter 22; agency staff shall cooperate with members of the public in implementing the provisions of that chapter.

ITEM 21. Rescind rule 489—5.3(22) and adopt the following **new** rule in lieu thereof:

489—5.3(17A,22) Requests for access to records.

5.3(1) Location of record. A request for access to a record should be directed to the child advocacy board or the particular agency office where the record is kept. If the location of the record is not known by the requester, the request shall be directed to the Child Advocacy Board, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083. If a request for access to a record is misdirected, agency personnel will promptly forward the request to the appropriate person within the agency.

5.3(2) Office hours. Open records shall be made available during all customary office hours, which are 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays.

5.3(3) Fees.

a. When charged. The agency may charge fees in connection with the examination or copying of records only if the fees are authorized by law. To the extent permitted by applicable provisions of law, the payment of fees may be waived when the imposition of fees is inequitable or when a waiver is in the public interest.

CHILD ADVOCACY BOARD[489](cont'd)

b. Copying and postage costs. Price schedules for published materials and for photocopies of records supplied by the agency shall be prominently posted in agency offices. Copies of records may be made by or for members of the public on agency photocopy machines or from electronic storage systems at cost as determined and posted in agency offices by the custodian. When the mailing of copies of records is requested, the actual costs of such mailing may also be charged to the requester.

c. Supervisory fee. An hourly fee may be charged for actual agency expenses in supervising the examination and copying of requested records when the supervision time required is in excess of one hour. The custodian shall prominently post in agency offices the hourly fees to be charged for supervision of records during examination and copying. That hourly fee shall not be in excess of the hourly wage of an agency clerical employee who ordinarily would be appropriate and suitable to perform this supervisory function.

d. Advance deposits.

(1) When the estimated total fee chargeable under this subrule exceeds \$25, the custodian may require a requester to make an advance payment to cover all or a part of the estimated fee.

(2) When a requester has previously failed to pay a fee chargeable under this subrule, the custodian may require advance payment of the full amount of any estimated fee before the custodian processes a new request from that requester.

ITEM 22. Adopt the following new rule 489—5.4(22):

489—5.4(22) Access to confidential records. Under Iowa Code section 22.7 or other applicable provisions of law, the lawful custodian may disclose certain confidential records to one or more members of the public. Other provisions of law authorize or require the custodian to release specified confidential records under certain circumstances or to particular persons. In requesting the custodian to permit the examination and copying of such a confidential record, the following procedures apply and are in addition to those specified for requests for access to records in rule 489—5.3(17A,22).

5.4(1) Proof of identity. A person requesting access to a confidential record may be required to provide proof of identity or authority to secure access to the record.

5.4(2) Requests. The custodian may require a request to examine and copy a confidential record to be in writing. A person requesting access to such a record may be required to sign a certified statement or affidavit enumerating the specific reasons justifying access to the confidential record and to provide any proof necessary to establish relevant facts.

5.4(3) Notice to subject of record and opportunity to obtain injunction. After the custodian receives a request for access to a confidential record, and before the custodian releases such a record, the custodian may make reasonable efforts to notify promptly any person who is a subject of that record, is identified in that record, and whose address or telephone number is contained in that record. To the extent such a delay is practicable and in the public interest, the custodian may give the subject of such a confidential record to whom notification is transmitted a reasonable opportunity to seek an injunction under Iowa Code section 22.8, and indicate to the subject of the record the specific period of time during which disclosure will be delayed for that purpose.

5.4(4) Request denied. When the custodian denies a request for access to a confidential record, the custodian shall promptly notify the requester. If the requester indicates to the custodian that a written notification of the denial is desired, the custodian shall promptly provide such a notification that is signed by the custodian and that includes:

a. The name and title or position of the custodian responsible for the denial; and

b. A citation to the provision of law vesting authority in the custodian to deny disclosure of the record and a brief statement of the reasons for the denial to this requester.

5.4(5) Request granted. When the custodian grants a request for access to a confidential record to a particular person, the custodian shall notify that person and indicate any lawful restrictions imposed by the custodian on that person's examination and copying of the record.

CHILD ADVOCACY BOARD[489](cont'd)

ITEM 23. Adopt the following new rule 489—5.5(17A,22):

489—5.5(17A,22) Requests for treatment of a record as a confidential record and its withholding from examination. The custodian may treat a record as a confidential record and withhold it from examination only to the extent that the custodian is authorized by Iowa Code section 22.7, another applicable provision of law, or a court order, to refuse to disclose that record to members of the public.

5.5(1) *Persons who may request.* Any person who would be aggrieved or adversely affected by disclosure of a record and who asserts that Iowa Code section 22.7, another applicable provision of law, or a court order, authorizes the custodian to treat the record as a confidential record, may request the custodian to treat that record as a confidential record and to withhold it from public inspection.

5.5(2) *Request.* A request that a record be treated as a confidential record and be withheld from public inspection shall be in writing and shall be filed with the custodian. The request must set forth the legal and factual basis justifying such confidential record treatment for that record, and the name, address, and telephone number of the person authorized to respond to any inquiry or action of the custodian concerning the request. A person requesting treatment of a record as a confidential record may also be required to sign a certified statement or affidavit enumerating the specific reasons justifying the treatment of that record as a confidential record and to provide any proof necessary to establish relevant facts. Requests for treatment of a record as such a confidential record for a limited time period shall also specify the precise period of time for which that treatment is requested.

A person filing such a request shall, if possible, accompany the request with a copy of the record in question from which those portions for which such confidential record treatment has been requested have been deleted. If the original record is being submitted to the agency by the person requesting such confidential treatment at the time the request is filed, the person shall indicate conspicuously on the original record that all or portions of it are confidential.

5.5(3) *Failure to request.* Failure of a person to request confidential record treatment for a record does not preclude the custodian from treating it as a confidential record. However, if a person who has submitted business information to the agency does not request that it be withheld from public inspection under Iowa Code sections 22.7(3) and 22.7(6), the custodian of records containing that information may proceed as if that person has no objection to its disclosure to members of the public.

5.5(4) *Timing of decision.* A decision by the custodian with respect to the disclosure of a record to members of the public may be made when a request for its treatment as a confidential record that is not available for public inspection is filed, or when the custodian receives a request for access to the record by a member of the public.

5.5(5) *Request granted or deferred.* If a request for such confidential record treatment is granted, or if action on such a request is deferred, a copy of the record from which the matter in question has been deleted and a copy of the decision to grant the request or to defer action upon the request will be made available for public inspection in lieu of the original record. If the custodian subsequently receives a request for access to the original record, the custodian will make reasonable and timely efforts to notify any person who has filed a request for its treatment as a confidential record that is not available for public inspection of the pendency of that subsequent request.

5.5(6) *Request denied and opportunity to seek injunction.* If a request that a record be treated as a confidential record and be withheld from public inspection is denied, the custodian shall notify the requester in writing of that determination and the reasons therefor. On application by the requester, the custodian may engage in a good-faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief under the provisions of Iowa Code section 22.8, or other applicable provision of law. However, such a record shall not be withheld from public inspection for any period of time if the custodian determines that the requester had no reasonable grounds to justify the treatment of that record as a confidential record. The custodian shall notify requester in writing of the time period allowed to seek injunctive relief or the reasons for the determination that no reasonable grounds exist to justify the treatment of that record as a confidential record. The custodian may extend the period of good-faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief only if no request for examination of that record has been received, or if a court directs

CHILD ADVOCACY BOARD[489](cont'd)

the custodian to treat it as a confidential record, or to the extent permitted by another applicable provision of law, or with the consent of the person requesting access.

ITEM 24. Amend rule 489—5.6(22) as follows:

489—5.6(22) Procedure by which a subject may have additions, dissents, or objections entered into the record. ~~In lieu of the words “(designate office)”, insert “the originating agency, or to the director’s office”.~~ Except as otherwise provided by law, a person may file a request with the custodian to review, and to have a written statement of additions, dissents, or objections entered into, a record containing personally identifiable information pertaining to that person. However, this does not authorize a person who is a subject of such a record to alter the original copy of that record or to expand the official record of any agency proceeding. Requester shall send the request to review such a record or the written statement of additions, dissents, or objections to the custodian agency. The request to review such a record or the written statement of such a record of additions, dissents, or objections must be dated and signed by requester, and shall include the current address and telephone number of the requester or the requester’s representative.

ITEM 25. Adopt the following new rule 489—5.7(17A,22):

489—5.7(17A,22) Consent to disclosure by the subject of a confidential record. To the extent permitted by any applicable provision of law, a person who is the subject of a confidential record may have a copy of the portion of that record concerning the subject disclosed to a third party. A request for such a disclosure must be in writing and must identify the particular record or records that may be disclosed, and the particular person or class of persons to whom the record may be disclosed (and, where applicable, the time period during which the record may be disclosed). The person who is the subject of the record and, where applicable, the person to whom the record is to be disclosed, may be required to provide proof of identity. (Additional requirements may be necessary for special classes of records.) Appearance of counsel before the agency on behalf of a person who is the subject of a confidential record is deemed to constitute consent for the agency to disclose records about that person to the person’s attorney.

ITEM 26. Adopt the following new rule 489—5.8(17A,22):

489—5.8(17A,22) Notice to suppliers of information. When the agency requests a person to supply information about that person, the agency shall notify the person of the use that will be made of the information, which persons outside the agency might routinely be provided this information, which parts of the requested information are required and which are optional, and the consequences of a failure to provide the information requested. This notice may be given in these rules, on the written form used to collect the information, on a separate fact sheet or letter, in brochures, in formal agreements, in contracts, in handbooks, in manuals, verbally, or by other appropriate means.

ITEM 27. Amend rule 489—5.10(22) as follows:

489—5.10(22) Routine use. “Routine use” means the disclosure of a record without the consent of the subject or subjects, for a purpose which is compatible with the purpose for which the record was collected. It includes disclosures required to be made by statute other than the public records law, Iowa Code chapter 22.

To the extent allowed by law, the following uses are considered routine uses of all agency records:

1. Disclosure to those officers, employees, agents, and ~~foster care review child advocacy board~~ members defined in Iowa Code section 237.18 of the agency or the originating agency who have a need for the record in the performance of their duties. The custodian of the record may, upon request of any officer or employee, or on the custodian’s own initiative, determine what constitutes legitimate need to use confidential records.

2. to 5. No change.

CHILD ADVOCACY BOARD[489](cont'd)

ITEM 28. Amend subrule 5.11(3) as follows:

5.11(3) *Obtaining information from a third party.* The ~~foster care review~~ child advocacy board requests personally identifiable information from third parties during the course of its authorized reviews. Requests to third parties for this information involve the release of confidential identifying information.

ITEM 29. Amend rule 489—5.14(22) as follows:

489—5.14(22) Personally identifiable information. This rule describes the nature and extent of personally identifiable information which is collected, maintained, and retrieved by the agency by personal identifier in record systems. For each record system, this rule describes the legal authority for the collection of that information, the means of storage of that information and indicates whether a data processing system matches, collates, or permits the comparison of personally identifiable information in one record system with personally identifiable information in another record system. The record systems maintained by the agency are:

1. Files are maintained by the child's name in the ~~foster care review~~ child advocacy board offices. Those files are kept in locked filing cabinets. (Iowa Code section 237.18(2)“a”)
2. The Foster Care Registry (Iowa Code section 237.17) is a computerized tracking system of the children reported to the ~~foster care review~~ child advocacy board. The information of each case is personally identifiable by name.
3. Personnel files for each employee of the ~~foster care review~~ child advocacy board. These may be confidential pursuant to Iowa Code section 22.7(11).

ARC 6546C

ECONOMIC DEVELOPMENT AUTHORITY[261]

Notice of Intended Action

Proposing rule making related to historic preservation tax credit and providing an opportunity for public comment

The Economic Development Authority (IEDA) hereby proposes to amend Chapter 49, “Historic Preservation and Cultural and Entertainment District Tax Credits,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 404A.6.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 404A.

Purpose and Summary

IEDA administers the Historic Preservation Tax Credit Program pursuant to Iowa Code chapter 404A. The program offers a state income tax credit of up to 25 percent of the qualified rehabilitation expenditures associated with a historic preservation project.

The proposed amendments represent a comprehensive update of the chapter relating to the tax credit. Changes include the following:

1. References to tax credits for cultural and entertainment districts are removed. This portion of the program was repealed in 2017.
2. Portions of the rules relating to the responsibilities of the Iowa Department of Revenue (IDR) and the State Historic Preservation Office (SHPO) of the Department of Cultural Affairs in administering the program are removed. These aspects of the program are addressed in each of those agencies' rules, including rules regarding transfers of tax credits and refundability. Refundability of the tax credits was impacted by 2022 Iowa Acts, House File 2317.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

3. Beginning January 1, 2023, only expenditures made in the five years prior to an initial application for the tax credit will be qualified rehabilitation expenditures.
4. IEDA will extend the deadline for submitting a Part 3 application under extenuating circumstances.
5. Other corrective and clarifying changes are made.

The proposed amendments have been reviewed by representatives of IDR and SHPO as well as developers who utilize the program.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition IEDA for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by IEDA no later than 4:30 p.m. on October 11, 2022. Comments should be directed to:

Lisa Connell
Iowa Economic Development Authority
1963 Bell Avenue, Suite 200
Des Moines, Iowa 50315
Phone: 515.348.6163
Email: lisa.connell@iowaeda.com

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend **261—Chapter 49**, title, as follows:

~~HISTORIC PRESERVATION AND CULTURAL AND
ENTERTAINMENT DISTRICT TAX CREDITS CREDIT~~

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

ITEM 2. Amend rule 261—49.1(303,404A) as follows:

261—49.1(303,404A) Purpose. ~~A historic preservation and cultural and entertainment district tax credit may be applied against the income tax imposed under Iowa Code chapter 422, division II, III, or V, or Iowa Code chapter 432 for qualified rehabilitation projects that have entered into and complied with an agreement with the economic development authority (hereinafter referred to as “the authority”) and complied with all applicable terms, laws, and rules. The Pursuant to Iowa Code chapters 303 and 404A, the historic preservation tax credit program is administered by the authority with the assistance of the department of cultural affairs and the department of revenue. The general assembly has mandated that the authority, the department of cultural affairs and the department of revenue adopt rules to jointly administer Iowa Code chapter 404A. In general, the department of cultural affairs reviews historic preservation issues and evaluates whether projects comply with the prescribed historic standards for rehabilitation. Once the historical significance and description of rehabilitation have been approved, the authority enters into an agreement with the eligible taxpayer and issues a tax credit upon completion of all program requirements and verification of qualified rehabilitation expenditures. The department of revenue is responsible for administering tax credit transfers and processing tax credit claims. This chapter sets forth the administration of the program by the authority. The administrative rules for the department of cultural affairs’ administration of the program can be found in rules 223—48.22(404A) through 223—48.37(303,404A) 223—Chapter 48. The administrative rules for the department of revenue’s administration of the program may be found in rules 701—42.19(404A), 701—42.55(404A,422), 701—52.48(404A,422), and 701—58.10(404A,422).~~

ITEM 3. Amend rule 261—49.2(404A) as follows:

261—49.2(404A) Program transition and applicability. ~~The 2016 general assembly made several changes to the historic tax credit program, including transferring the primary responsibility for the program’s administration to the authority in consultation with the department of cultural affairs. For projects registered prior to August 15, 2016, the program is administered by the department of cultural affairs and the department of revenue pursuant to the statutes and rules that apply to projects registered prior to August 15, 2016. On or after August 15, 2016, the program is administered by the economic development authority in consultation with the department of cultural affairs pursuant to Iowa Code chapter 404A. Chapter 49 applies to projects that are registered on or after August 15, 2016.~~

ITEM 4. Amend rule 261—49.3(404A) as follows:

261—49.3(404A) Definitions. ~~The definitions listed in rules 223—1.2(17A,303) and 223—35.2(303) shall apply to terms as they are used throughout this chapter. In addition, for For purposes of this chapter, unless the context otherwise requires:~~

~~“Agreement” means an agreement between an eligible taxpayer and the authority concerning a qualified rehabilitation project as provided in Iowa Code section 404A.3(3) and rule 261—49.14(404A) 261—49.12(404A).~~

~~“Applicant” means an eligible taxpayer described in rule 261—49.9(404A).~~

~~“Assessed value” means the value of the eligible property on the most current property tax assessment at the time that the relevant application or agreement is submitted or the agreement is signed, as applicable.~~

~~“Authority” means the economic development authority.~~

~~“Authority’s website” means the information and related content found at www.iowaeda.com and may include integrated content at affiliate sites.~~

~~“Barn” means an agricultural building or structure, in whatever shape or design, which was originally used for the storage of farm products or feed or for the housing of farm animals, poultry, or farm equipment.~~

~~“Certificate” means a historic preservation and cultural and entertainment district tax credit certificate issued pursuant to Iowa Code section 404A.3(5).~~

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

~~“Commencement date” means the date set forth in the agreement, which date shall not be later than the end of the fiscal year in which the agreement is entered into by which the qualified rehabilitation project must begin.~~

“Commercial property” means property classified as commercial, industrial, railroad, utility, or multiresidential residential for property tax purposes under rules 701—71.1(405,427A,428,441,499B), 701—76.1(434), and 701—77.1(428,433,437,438). “Commercial property” does not include property classified as residential property under 701—subparagraph 71.1(4)“c”(1).

“Completion date” means the date on which property that is the subject of a qualified rehabilitation project is placed in service, as that term is used in Section 47 of the Internal Revenue Code.

“Department” means the department of cultural affairs.

“Director” means the director of the economic development authority.

“Eligible taxpayer” means the fee simple owner of the property that is the subject of a qualified rehabilitation project, or another person who will qualify for the federal rehabilitation credit allowed under Section 47 of the Internal Revenue Code with respect to the property that is the subject of a qualified rehabilitation project.

“Federal rehabilitation credit” or “federal credit” means the tax credit allowed under Section 47 of the Internal Revenue Code.

“Federal standards” means the U.S. Secretary of the Interior’s standards for rehabilitation set forth in 36 CFR Section 67.7.

~~“Government funding” or “funding originating from a government” includes but is not limited to:~~

1. Any funding the applicant received from a federal, state, or local government; or
2. Funding from a third party or a series of third parties where those funds originally came from a government or were derived from a government payment, grant, loan, tax credit or rebate or other government incentive; or
3. Funding from a third party or a series of third parties where those funds are derived from, secured by, or otherwise received in anticipation of a government payment, grant, loan, tax credit or rebate or other government incentive.

“Historically significant” means a property that is at least one of the following:

1. Property listed on the National Register of Historic Places or eligible for such listing.
2. Property designated as contributing to a district listed in the National Register of Historic Places or eligible for such designation.
3. Property or district designated a local landmark by a city or county ordinance.
4. A barn constructed prior to 1937.

“Large project” means a qualified rehabilitation project with estimated final qualified rehabilitation expenditures of more than \$750,000.

“National Register of Historic Places” means the same as defined in rule 223—35.2(303).

“Noncommercial property” means property other than “commercial property” as defined in this rule. “Noncommercial property” includes barns constructed prior to 1937.

“Nonprofit organization” means an organization described in Section 501 of the Internal Revenue Code unless the exemption is denied under Section 501, 502, 503, or 504 of the Internal Revenue Code. “Nonprofit organization” does not include a governmental body, as that term is defined in Iowa Code section 362.2.

“Part 1 application” means an application submitted to SHPO to determine whether a property is historically significant.

“Part 2 application” means an application submitted to SHPO to determine whether the proposed rehabilitation work meets the federal standards.

“Part 2B application” means an application submitted to the authority, after a Part 2 application has been approved by SHPO but before a Part 3 application is submitted, to determine whether a project should be registered for a tentative tax credit award.

“Part 3 application” means an application submitted to the authority, after a Part 2B application is approved, to determine whether a project has complied with the terms of an agreement as well as with

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

applicable laws, rules and regulations, including federal standards, and is therefore eligible for issuance of a tax credit certificate.

“Placed in service” means the same as used in Section 47 of the Internal Revenue Code.

“Program” means the historic preservation and cultural and entertainment district tax credit program set forth in this chapter.

“Property” means the real property that is the subject of a “qualified rehabilitation project” or that is the subject of an application to become a qualified rehabilitation project.

“Qualified rehabilitation expenditures” or *“QREs”* means expenditures that meet the definition of “qualified rehabilitation expenditures” in Section 47 of the Internal Revenue Code and as described in rule 261—49.4(404A).

“Qualified rehabilitation project” or *“project”* means a project for the rehabilitation of property in this state that meets all of the following criteria:

1. The property is historically significant as defined in this rule.
2. The property meets the federal standards as defined in this rule.
3. The project is a substantial rehabilitation as defined in this rule.

“Related entities” means any entity owned or controlled in whole or in part by the applicant; any person or entity that owns or controls in whole or in part the applicant; or any entity owned or controlled in whole or in part by any current or prospective officer, principal, director, or owner of the applicant.

“Related persons” means any current or prospective officer, principal, director, member, shareholder, partner, or owner of the applicant.

“SHPO” means the state historic preservation office at of the department of cultural affairs.

“Small project” means a qualified rehabilitation project with estimated final qualified rehabilitation expenditures of \$750,000 or less.

“Substantial rehabilitation” means qualified rehabilitation costs that meet or exceed the following:

1. In the case of commercial property, costs totaling at least 50 percent of the assessed value of the property, excluding the land, prior to the rehabilitation or at least \$50,000, whichever is less; or
2. In the case of noncommercial property, costs totaling at least \$25,000 or 25 percent of the assessed value, excluding the land, prior to rehabilitation, whichever is less.

“Tax credit” or *“historic tax credit”* means the historic preservation and cultural and entertainment district tax credit established in Iowa Code chapter 404A.

ITEM 5. Amend rule 261—49.4(404A) as follows:

261—49.4(404A) Qualified rehabilitation expenditures.

~~49.4(1) Definition. “Qualified rehabilitation expenditures” or “QREs” means expenditures that meet the definition of “qualified rehabilitation expenditures” in Section 47 of the Internal Revenue Code and are specified in the agreement.~~

~~49.4(2) 49.4(1) Expenditures incurred by nonprofit organizations.~~ Notwithstanding the foregoing ~~subrule definition in rule 261—49.3(404A),~~ expenditures incurred by an eligible taxpayer that is a nonprofit organization shall be considered “qualified rehabilitation expenditures” if they are any of the following:

~~a.~~ Expenditures made for structural components, as that term is defined in Treasury Regulation §1.48-1(e)(2).

~~b.~~ Expenditures made for architectural and engineering fees, site survey fees, legal expenses, insurance premiums, and development fees.

~~49.4(3) 49.4(2) What expenditures qualify.~~ “Qualified rehabilitation expenditures” may include:

~~a.~~ Expenditures For projects registered on or after January 1, 2023, expenditures incurred within five years prior to the date an agreement is entered into under Iowa Code section 404A.3(3). The amount of the historic tax credit is a maximum of 25 percent of the qualified rehabilitation expenditures verified by the authority following project completion, up to the amount specified in the agreement between the eligible taxpayer and the authority.

~~b.~~ Reasonable developer fees. The authority may establish limits on developer fees and may adjust those limits. Any adjustment made to the established limit shall take effect 24 months after

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

the adjustment is published on the authority's ~~Web site~~ website. Developer fees that are qualified rehabilitation expenditures and that meet the limits effective at the time the ~~registration~~ Part 2B application is submitted shall be deemed reasonable by the authority.

~~49.4(4)~~ **49.4(3)** *Government financing.* "Qualified rehabilitation expenditures" does not include those expenditures financed by federal, state, or local government grants or forgivable loans unless otherwise allowed under Section 47 of the Internal Revenue Code. For an eligible taxpayer that is not eligible for the federal rehabilitation credit, expenditures financed with federal, state, or local government grants or forgivable loans are not qualified rehabilitation expenditures.

ITEM 6. Amend rule 261—49.5(404A) as follows:

261—49.5(404A) Historic preservation and ~~cultural and entertainment district tax credit.~~

49.5(1) *Tax credit.* An eligible taxpayer who has entered into and complied with an agreement under Iowa Code section 404A.3(3) and has complied with the program statutes and rules is eligible to claim a historic tax credit of 25 percent of the qualified rehabilitation expenditures of a qualified rehabilitation project that are specified in the agreement. Notwithstanding any other provision in Iowa Code chapter 404A, this chapter, or any provision in the agreement to the contrary, the amount of the tax credit shall not exceed 25 percent of the final qualified rehabilitation expenditures verified by the authority pursuant to Iowa Code section 404A.3(5) "c."

~~49.5(2)~~ *Who may claim the credit.* ~~The tax credit shall be allowed against the taxes imposed in Iowa Code chapter 422, divisions II, III, and V, and in Iowa Code chapter 432. An individual may claim a tax credit under this rule of a partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual. For an individual claiming a tax credit of an estate or trust, the amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the estate or trust. For an individual claiming a tax credit of a partnership, limited liability company, or S corporation, the amount claimed by the partner, member, or shareholder, respectively, shall be based upon the amounts designated by the eligible partnership, S corporation, or limited liability company, as applicable.~~

~~49.5(3)~~ *Transferability.* ~~Tax credit certificates issued under Iowa Code section 404A.3 may be transferred to any person. For information on transfer of tax credits under this program, see department of revenue rules 701—42.55(404A,422), 701—52.48(404A,422), and 701—58.10(404A,422).~~

~~49.5(4)~~ *Refundability and carryforward.* ~~An eligible taxpayer or a transferee may elect to receive either a refundable or a nonrefundable tax credit. For information on refundable and nonrefundable tax credits, including the carryforward of nonrefundable tax credits, see department of revenue rules 701—42.55(404A,422), 701—52.48(404A,422), and 701—58.10(404A,422).~~

~~49.5(5)~~ **49.5(2)** *How to claim the tax credit.* ~~For information on how to claim the tax credit, see To receive the tax credit, a taxpayer shall file a claim in accordance with any applicable administrative rules adopted by the department of revenue rules 701—42.55(404A,422), 701—52.48(404A,422), and 701—58.10(404A,422).~~

ITEM 7. Amend rule 261—49.6(404A) as follows:

261—49.6(404A) Management of annual aggregate tax credit award limit. The authority shall not register, ~~as described in rule 261—49.13(404A),~~ more projects in a given fiscal year for tentative awards than there are tax credits available for that fiscal year under Iowa Code section 404A.4. The authority will determine the projects for which sufficient tax credits are available based on the estimated qualified rehabilitation expenditures identified in the ~~registration~~ Part 2B application, plus allowable cost overruns as described in paragraph ~~49.14(1) "e."~~ 49.12(1) "c."

49.6(1) *Registration scoring.* If applicants' total tax credit requests from a fiscal year allocation exceed the tax credit allocation for that fiscal year, the authority will prioritize its determinations based on the applicants' registration scores. ~~All registered projects must meet the minimum score as described in rule 261—49.13(404A).~~ If there are no more projects that meet the minimum score as described in rule 261—49.13(404A) 261—49.11(404A), the authority may make the remaining tax credits available

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

for small projects or allow the remaining tax credits for the fiscal year to carry forward to the succeeding fiscal year to the extent permitted by Iowa Code section 404A.4.

49.6(2) Registrations for future tax credit allocations. Registrations for future tax credit allocations require a new Part 2B application. When registering projects for a particular fiscal year, the authority shall not award, reserve, or register tax credits from future fiscal years' tax credit allocations. An applicant whose project is not registered due to an insufficient score or noncompliance with the application or the program statute or rules may submit future applications for future fiscal year tax credit allocations.

49.6(3) Reallocation or rollover of available tax credit awards. Tax credits may be reallocated or rolled over into future fiscal years to the extent permitted by Iowa Code section 404A.4.

ITEM 8. Amend rule 261—49.7(404A) as follows:

261—49.7(404A) Application and agreement process, generally Applications.

49.7(1) All applications and other filings related to the program shall be on such forms and in accordance with such instructions as may be established by SHPO and the authority. Information about the program ~~and, including a link to the online application applications~~ and instructions, may be obtained by ~~contacting the authority or by visiting the authority's Web site: website.~~

Iowa Economic Development Authority
Community Development Division
200 East Grand Avenue, Des Moines, Iowa 50309
(515)725-3000
<http://iowaeconomicdevelopment.com/>

49.7(2) An application shall not be considered submitted for review until the application is completed and all required supporting documentation and information are provided.

~~49.7(3) The application and agreement process consists of six steps:~~

~~a.—The applicant submits a Part 1 application to the authority, which is used to evaluate the property's integrity and significance. The authority will consult with SHPO when reviewing the Part 1 application.~~

~~b.—Unless the Part 1 application is denied by the authority, the applicant participates in a preapplication meeting with SHPO and the authority to discuss what to expect for the remainder of the application process.~~

~~c.—If the Part 1 application is approved and the preapplication meeting is completed, the applicant submits a Part 2 application to the authority, which is used to evaluate the proposed rehabilitation work. The authority will consult with SHPO when reviewing the Part 2 application.~~

~~d.—If the Part 2 application is approved, the applicant submits a registration application to the authority, which is used to score the applicant's rehabilitation plan and financial readiness. If the project is awarded a sufficient registration score, satisfies other requirements of the application and program, and sufficient tax credits are available, the authority may register the project.~~

~~e.—If the project is registered, the applicant may enter into an agreement with the authority that establishes the maximum amount of the tax credit award and the terms and conditions that must be met to receive the tax credits. An applicant must enter into and comply with an agreement in order to participate in the program and claim any tax credits.~~

~~f.—Once the project is completed and the property is placed in service, the applicant submits a Part 3 application to the authority, which is used to evaluate whether the completed work meets the federal standards and the other requirements of the agreement, laws, and regulations of the program. The authority will consult with SHPO when reviewing the Part 3 application.~~

~~A more detailed description of each step is provided in rules 261—49.10(404A) through 261—49.15(404A).~~

ITEM 9. Amend rule 261—49.8(404A) as follows:

261—49.8(404A) Small projects. Projects with anticipated final qualified rehabilitation expenditures of more than \$750,000 will be evaluated as large projects. Projects with \$750,000 or less in anticipated

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

~~final rehabilitation expenditures will be evaluated as small projects.~~ If an applicant anticipates that the final qualified rehabilitation expenditures will exceed \$750,000, the applicant ~~may only~~ shall not submit its application as a ~~large~~ small project. The authority will not permit a small project applicant to submit additional or amended applications that would cause the final qualified expenditures to exceed \$750,000.

49.8(1) *Small project fund.* The authority shall allocate at least 5 percent of its annual fiscal year tax credit award limit to small projects.

49.8(2) *Aggregate award limit.* For applicants that receive credits from the small project allocation, the cumulative total award for multiple applications for a single property shall not exceed \$750,000 in qualified rehabilitation expenditures plus any allowable cost overruns as described in paragraph 49.14(1)“e,” 49.12(1)“c,” regardless of the final qualified rehabilitation expenditures. The authority will not accept an application by the same owner for a property for which credits were previously received through the small project fund if the application causes the cumulative total to exceed \$750,000, plus any allowable cost overruns as described in paragraph 49.14(1)“e.” 49.12(1)“c.”

49.8(3) *Application and agreement process Small project Part 2B applications.* ~~The Part 1, Part 2, and Part 3 application process and the agreement requirements are the same for small projects as for large projects. The registration process for small projects differs from that for large projects. See subrule 49.13(8) for more information on the registration process for small projects. Small project application forms may be obtained by visiting the authority’s website. Small project Part 2B applications may be accepted on a continuous basis or may be accepted during one or more application periods. Small project Part 2B applications may be evaluated on a first-come, first-served basis, subject to the availability of tax credits.~~

ITEM 10. Amend rule 261—49.9(404A) as follows:

261—49.9(404A) Who may apply for the tax credit. Only an eligible taxpayer as defined in rule 261—49.3(404A) may apply for the tax credit. ~~To be an eligible taxpayer, the applicant must be either (1) the fee simple owner or (2) a person that will ultimately qualify for the federal rehabilitation credit with respect to the qualified rehabilitation project. A nonprofit organization as defined in rule 261—49.3(404A) may apply for the tax credit if the nonprofit organization is the fee simple owner of the property.~~

49.9(1) *Applicants that are fee simple owners Preliminary documentation.* ~~If the applicant qualifies as an eligible taxpayer on the basis that the applicant is the fee simple owner of the property, the At the time a Part 1 application or Part 2 application is submitted, an applicant will be expected to provide proof of title as described in subrule 49.10(2) preliminary documentation of the applicant’s status as an eligible taxpayer.~~

a. An applicant that is the fee simple owner shall provide title documentation. If the title is held in the name of an entity, the applicant shall also provide documentation that indicates that the signatory is the authorized representative of the entity.

b. An applicant that is not the fee simple owner but plans to apply for the federal rehabilitation credit shall provide a copy of the approved federal Part 1 application, unless the property is individually listed on the National Register of Historic Places. The applicant must also certify that the applicant plans to apply and expects to qualify for the federal credit. The applicant must obtain from the fee simple owner of the property a written statement that indicates that the owner is aware of the application and has no objection and include the statement with the application.

49.9(2) *Applicants that will qualify for the federal credit Final documentation.* ~~If the applicant qualifies as an eligible taxpayer on the basis that the applicant will qualify for the federal rehabilitation credit with regard to the property, the applicant will be asked to provide increasingly substantial evidence as described in subrules 49.10(2) and 49.12(1) that the applicant will qualify for the federal credit, culminating with proof of actual fee simple ownership or a long term lease that meets the requirements of the federal rehabilitation credit before the agreement is entered into with the authority. Applicants that are eligible to apply under this subrule must obtain from the fee simple owner of the property a written statement which indicates that the owner is aware of the application and has no objection and include the statement with the application. At the time an eligible taxpayer enters an~~

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

agreement with the authority pursuant to rule 261—49.12(404A), the eligible taxpayer must provide documentation that the eligible taxpayer is a fee simple owner or has a binding qualified long-term lease that meets the requirements of the federal rehabilitation credit.

~~49.9(3) Who may not apply. Government~~ Governmental bodies as defined in Iowa Code section 362.2 may not apply. ~~Additionally, an applicant may not initiate the application process to apply for tax credits by submitting a Part 1 application on a project if all of the work has been completed and the qualified rehabilitation project has already been placed in service.~~

ITEM 11. Rescind rule 261—49.10(404A) and adopt the following new rule in lieu thereof:

261—49.10(404A) Part 1 and Part 2 applications. An eligible taxpayer shall submit preliminary applications to SHPO to evaluate, in consultation with the authority, whether the property is historically significant (Part 1) and whether the proposed rehabilitation work meets the federal standards (Part 2). Part 1 and Part 2 applications will be submitted and evaluated in accordance with the SHPO's rules in 223—Chapter 48. The authority will evaluate Part 1 and Part 2 applications to ensure applicants are eligible taxpayers. An applicant must submit a Part 1 application prior to all of the work being completed and the project being placed in service.

ITEM 12. Rescind rules **261—49.11(404A)** and **261—49.12(404A)**.

ITEM 13. Renumber rules **261—49.13(404A)** to **261—49.19(303,404A)** as **261—49.11(404A)** to **261—49.17(303,404A)**.

ITEM 14. Amend renumbered rule 261—49.11(404A) as follows:

261—49.11(404A) Registration Part 2B application. ~~If the authority SHPO has approved Part 1 and Part 2 applications for a project, the applicant may submit a historic tax credit registration Part 2B application to the authority during the applicable registration application period as announced on the authority's website. The registration application is used to determine whether the project is ready to proceed both financially and logistically. The registration application is also used to confirm whether the proposed work will meet the substantial rehabilitation test and whether the project is a small project or a large project. The registration application is also used to obtain background information, including information that may disqualify an applicant from participating in the program, as well as other information about the applicant, related persons, and related entities. Though the application process is largely the same for small projects as it is for large projects, there are some differences. For details on those differences, see rule 261—49.8(404A).~~

49.11(1) Proof of status as eligible taxpayer. An eligible taxpayer as defined in rule 261—49.3(404A) may submit a registration Part 2B application.

a. An applicant that is the fee simple owner must notify the authority of any changes in ownership status since the Part 2 application was filed.

b. If the applicant is not the fee simple owner but plans to apply for the federal rehabilitation credit, the applicant's application will be scored based on the steps taken toward ownership as described in subrule ~~49.13(6)~~ 49.11(6). The applicant must certify that the applicant understands that the applicant will not qualify for any state historic tax credit if the applicant is not the fee simple owner or not otherwise an eligible taxpayer. The applicant must also provide proof of permission from the fee simple owner as described in subrule ~~49.9(2)~~.

49.11(2) Submission period. ~~In general, applications for registration will only be accepted during the established application period, or periods, as identified by the authority on its Web site. However, applications for small project registration will be accepted year-round. The authority may accept Part 2B applications on a continuous basis or may accept applications during one or more application periods.~~

49.11(3) Required information. The registration Part 2B application must include the following information as well as any additional information the authority may request: total project cost, an estimated schedule of qualified rehabilitation expenditures and a schedule of all funding sources received or anticipated to be received that will be used to fund the project, including those funding sources used or that will be used to finance or reimburse both qualified rehabilitation expenditures and

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

those expenditures not being claimed as qualified rehabilitation expenditures, along with supporting documentation. The schedule must identify all government funding as defined in rule 261—49.3(404A), including any funding that originated or will originate from any government, whether federal, state, or local.

49.11(4) Certification and release of information. The applicant must identify and list all related persons and related entities, as those terms are defined in rule 261—49.3(404A). The applicant must release information requested by the authority regarding the applicant, related persons, and related entities. The applicant must also certify that all representations, warranties, documents, or statements made or furnished in connection with the ~~registration~~ Part 2B application are true and accurate. The certification and release of information are intended to identify information that ~~will~~ may disqualify an applicant from participating in the program or that may have an adverse impact on the project. The certification and release of information are also intended to provide the authority with information regarding the economic, ownership, and management realities related to the project by providing information about the actual persons and businesses affiliated with the applicant, the actual persons and businesses that will derive financial benefits from the project, and other businesses affiliated with the individuals involved with the project.

a. The authority ~~shall~~ may reject an application for registration if ~~any of the following occurs or exists:~~

(1) The applicant fails to answer the questions and provide all requested information and documents in a timely manner ~~as required by the rules or the application or in a timely manner as otherwise requested by the authority.~~

(2) The applicant provides false or inaccurate information or documents to the authority.

(3) The applicant, a related person, or a related entity ~~has not filed~~ is not in good standing with any local, state, or federal ~~tax returns that are due~~ taxing authority. This provision shall not apply to an applicant, related person, or related entity that has timely filed an extension to file a local, state or federal tax return.

~~(4) The applicant, a related person, or a related entity has any overdue local, state, or federal tax liability, including any tax, interest, or penalty.~~

~~(5) (4)~~ (4) The applicant, a related person, or a related entity is currently in default, has an uncured breach, or is otherwise not in compliance with ~~any contract, grant award, or tax credit program with the state of Iowa, any agency of the state of Iowa, or any other entity or instrumentality of the state of Iowa.~~

~~(6) (5)~~ (5) The applicant, a related person, or a related entity has any overdue amounts owed to the state of Iowa, any agency of the state of Iowa, any other entity or instrumentality of the state of Iowa, or any person or entity that is eligible to submit claims to the state offset system ~~under Iowa Code section 8A.504.~~

~~(7) The authority determines that registering the project, entering into an agreement with the authority, or permitting the applicant's tax credit claim would cause the applicant or another person to default on, breach, or otherwise not comply with any contract, grant award, or tax credit program with the state of Iowa, any agency of the state of Iowa, or any other entity or instrumentality of the state of Iowa.~~

~~(8) (6)~~ (6) The authority determines that the applicant will not be able to provide representations, warranties, conditions, or other terms of an agreement that would be acceptable to the authority.

~~(9) (7)~~ (7) Information is disclosed to the authority that would cause the authority to decline to enter into an agreement with the applicant.

b. Scope of inquiry. The authority may ask the applicant to disclose information and documents about other entities affiliated with the applicant, a related person, or a related entity if the authority determines that the information regarding the applicant, related persons, and related entities does not adequately disclose to the authority the economic, ownership, and management structure and realities related to a project.

c. In determining whether to reject an application in accordance with this subrule, the authority will consider factors including, but not limited to, the nature of the information disclosed and whether the applicant has a record of violations of law over a period of time that tends to show a consistent pattern.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

49.11(5) Review period. In general, the authority, in consultation with SHPO, will review fully completed registration Part 2B applications within ~~30~~ 60 calendar days of receipt. The ~~30-day~~ 60-day review period will be adhered to as closely as possible; however, it is not mandatory. ~~If any answers, responses, explanations, documents, or other information submitted in connection with the certification and release of information changes after the applicant has submitted this information to the authority, the applicant must supplement its response to the certification and release of information in writing within 10 business days of the change.~~ If the application is incomplete when submitted or if for any other reason the authority must request additional information, the ~~30-day~~ 60-day review period will restart when the requested information is received by the authority. The authority may reject an application if any requested information is not provided.

49.11(6) Scoring process. All completed applications will be reviewed and scored. ~~In order for a project to be considered for registration, the application must meet a minimum score as established by the authority and set forth in the current registration application.~~ Scoring of the application will take into account readiness criteria, ~~which may include~~ including, but not limited to, the following:

- a. Rehabilitation planning and project readiness. Projects will be scored based on whether the Part 2 application was approved with or without conditions.
- b. Secured financing. Weighted preference will be given to projects that have financing or equity or both in place.
- c. Steps taken towards ownership. Weighted preference will be given to the projects of applicants that are currently fee simple owners of the property.
- d. Local government support. Weighted preference will be given to projects that have received support from their local jurisdiction.
- e. Rehabilitation timeline. Weighted preference will be given to projects that will be completed in the shortest amount of time.
- f. Zoning and code review. Weighted preference will be given to the projects of applicants that can demonstrate a determination by the authority having jurisdiction that the project complies with the guidelines for construction permitting.
- g. Such other information as the authority may find relevant and request ~~on the registration application.~~

49.11(7) Registration. Upon reviewing and scoring all applications that are part of the application period, the authority may register the qualified rehabilitation projects to the extent sufficient tax credits are available based on the estimated qualified rehabilitation costs identified in the registration Part 2B applications. ~~Only projects that meet the minimum score established by the authority may be registered.~~ As described in rule 261—49.6(404A), in the case of insufficient funding, preference will be given to the projects with the highest registration score based on the criteria in subrule ~~49.13(6)~~ 49.11(6). At the time the project is registered, the authority shall make a preliminary determination as to the amount of tax credits for which the project qualifies. The authority shall make best efforts to notify the applicant within ~~45~~ 60 calendar days after the close of the ~~registration application~~ period as to whether the applicant's project has been registered. The registration notice shall include the amount of the applicant's tentative tax credit award, along with a notice that the amount is a preliminary, nonbinding determination only. ~~The authority will notify applicants whose projects were not registered and state whether the failure to register the project was due to the failure of the project to meet the minimum score, the lack of available tax credits, or another reason. A list of registered applicants will be posted by the authority on the authority's Web site.~~ Small projects may submit Part 2B applications year-round; however, the application must be submitted no later than 12 months after receipt of approval of the Part 2 application.

49.11(8) Small project registration application. The authority may establish for small projects a registration application form and process that differ from the application form and process used for large projects. ~~Small project application forms may be obtained by contacting the authority or by visiting the authority's Web site. Small projects may submit registration applications year-round; however, the registration application must be submitted no later than 180 calendar days after receipt of approval of the Part 2 application from the authority. Small project registration applications will be evaluated on a first-come, first-served basis, subject to the availability of tax credits.~~

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

ITEM 15. Amend renumbered rule 261—49.12(404A) as follows:

261—49.12(404A) Agreement. Upon successful registration of the project as described in subrule ~~49.13(7) or 49.13(8)~~ 49.11(7), the eligible taxpayer shall have ~~120~~ 90 calendar days or until the end of the fiscal year, whichever is less, to purchase or lease the property, if applicable, and enter into an agreement with the authority. Nothing in these rules shall affect the authority's ability to comply with the annual award limitations described in Iowa Code section 404A.4. ~~A condition precedent to any agreement will be~~ The authority shall not enter an agreement until it receives proof that the eligible taxpayer is the actual fee simple owner or has a binding qualified long-term lease that meets the requirements of the federal rehabilitation credit. An eligible taxpayer shall not be eligible for historic tax credits unless the eligible taxpayer enters into an agreement with the authority concerning the qualifying rehabilitation project and satisfies the terms and conditions that must be met to receive the tax credit award.

49.12(1) Terms and conditions. The agreement shall contain mutually agreeable terms and conditions, which shall, at a minimum, provide for the following:

a. The maximum amount of the tax credit award. Notwithstanding anything in this chapter to the contrary, no tax credit certificate shall be issued until the authority verifies the amount of final qualified rehabilitation expenditures and compliance with all other requirements of the agreement, Iowa Code chapter 404A, and the applicable rules.

b. The rehabilitation work to be performed. An eligible taxpayer shall perform the rehabilitation work consistent with the U.S. Secretary of the Interior's standards for rehabilitation, as determined by the department.

c. ~~The budget of the qualified rehabilitation project, including the.~~ The budget should include projected qualified rehabilitation expenditures, and those expenditures not qualified, and allowable cost overruns. The amount of allowable cost overruns provided for in the agreement shall not exceed the following amounts:

(1) For a qualified rehabilitation project with estimated final qualified rehabilitation expenditures of not more than \$750,000, 15 percent of the projected qualified rehabilitation expenditures provided for in the agreement.

(2) For a qualified rehabilitation project with estimated final qualified rehabilitation expenditures of more than \$750,000 but not more than \$6 million, 10 percent of the projected qualified rehabilitation expenditures provided for in the agreement.

(3) For a qualified rehabilitation project with estimated final qualified rehabilitation expenditures of more than \$6 million, 5 percent of the projected qualified rehabilitation expenditures provided for in the agreement.

d. A schedule of all funding sources received or anticipated to be received that will be used to fund the project, including those funding sources used or that will be used to finance or reimburse both qualified rehabilitation expenditures and those expenditures not being claimed as qualified rehabilitation expenditures, along with supporting documentation. The schedule must identify all government funding as defined in rule 261—49.3(404A), ~~including any funding that originated or will originate from any government, whether federal, state, or local.~~

e. The commencement date.

f. The completion date.

g. ~~The agreement termination date, which shall not be earlier than five years from the date on which the tax credit certificate is issued.~~

h. Such other terms, conditions, representations, and warranties as the authority may determine are necessary or desirable to protect the interests of the state.

49.12(2) Agreement timeline. The commencement date indicated in the agreement shall be no later than the end of the fiscal year in which the agreement is entered into. The completion date indicated in the agreement shall be no later than 36 months from the commencement date. The agreement termination date indicated in the agreement shall not be earlier than five years from the date on which the tax credit certificate is issued.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

~~49.12(2)~~ **49.12(3)** *Amendments.* The authority may for good cause amend an agreement. However, the authority may not amend an agreement to allow cost overruns in excess of the amount described in paragraph 49.14(1)“c.” ~~In addition, the commencement date, completion date, and agreement termination date may not be amended if such an amendment would violate the statutorily prescribed time limits as described in Iowa Code section 404A.3(3).~~ 49.12(1)“c.” Any amendment approved by the authority shall be signed by both parties.

~~49.12(3)~~ *Authority.* Only the director or chief operating officer may enter into agreements on behalf of the authority. Any agreement entered into on behalf of the authority by a person other than the director or chief operating officer shall be void.

ITEM 16. Amend renumbered rule 261—49.13(404A) as follows:

261—49.13(404A) Part 3 application—request for certification of completed work and verification of qualified rehabilitation expenditures. Part 3 of the application is used to determine whether the project has complied with the terms of the agreement as well as with applicable laws, rules and regulations, including federal standards.

49.13(1) *Submission period.* The fully completed Part 3 application must be submitted no more than 180 calendar days after the project completion date as defined in the agreement. The authority may extend this deadline under extenuating circumstances.

49.13(2) *Required information.* The Part 3 application must include the following information:

a. Certification that the eligible taxpayer is the fee simple owner or is qualified for the federal rehabilitation credit and has a binding qualified long-term lease that meets the requirements of the federal rehabilitation credit.

b. Using the qualified rehabilitation expenditures schedule form provided by the authority, a schedule of total expenditures for the project, which shall identify in detail the final qualified rehabilitation expenditures and those expenditures that are not qualified. The qualified rehabilitation expenditures schedules form may be obtained by contacting the authority or by visiting the authority's ~~Web site~~ website.

c. A schedule of all funding sources used to finance the project, including those funding sources used to finance or reimburse both qualified rehabilitation expenditures and expenditures not being claimed as qualified rehabilitation expenditures, along with supporting documentation. The schedule must identify all government funding as defined in rule 261—49.3(404A), ~~including any funding that originated from any government, whether federal, state, or local.~~

d. CPA examination.

(1) An eligible taxpayer shall engage a certified public accountant authorized to practice in this state to conduct an examination of the project in accordance with the American Institute of Certified Public Accountants' statements on standards for attestation engagements. The attestation applicable to this examination is SSAE No. 10 (as amended by SSAE Nos. 11, 12, 14), AT section 101 and AT section 601. Upon completion of the qualified rehabilitation project, the eligible taxpayer shall submit the examination to the authority, along with a statement of the amount of final qualified rehabilitation expenditures and any other information deemed necessary by the authority in order to verify that all requirements of the agreement, Iowa Code chapter 404A, and all rules adopted pursuant to Iowa Code chapter 404A have been satisfied.

(2) The procedures used by the CPA to conduct the examination should allow the CPA to conclude that, in the CPA's professional judgment, the qualified rehabilitation expenditures claimed are eligible pursuant to the agreement, Iowa Code chapter 404A, and all rules adopted pursuant to Iowa Code chapter 404A in all material respects. The documents reviewed by the CPA should be readily available to the authority upon request. The applicant should generally be able to provide the requested documents within ~~10 ten~~ business days of a request from the authority.

(3) The examination requirement is waived for an eligible taxpayer if the final qualified rehabilitation expenditures of the qualified rehabilitation project, as verified by the authority, do not exceed \$100,000 and the qualified rehabilitation project is funded exclusively by private funding sources. The authority reserves the right to request any additional information necessary to verify the

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

final qualified rehabilitation expenditures and, if deemed necessary by the authority, to require that such an eligible taxpayer engage a CPA to conduct an examination of the project pursuant to ~~49.15(23)“d.”~~ paragraph 49.13(2)“d.”

~~e.~~ Any other information deemed necessary by the authority in order to verify that all requirements of the agreement, Iowa Code chapter 404A, and all rules adopted pursuant to Iowa Code chapter 404A have been satisfied or any other information the authority may require for program evaluation.

~~f.~~ Election to receive either a refundable or a nonrefundable tax credit. ~~The taxpayer’s election does not impact a transferee’s ability to make its own election upon transfer. For information on transferring tax credits, see department of revenue rules 701—42.55(404A,422) and 701—52.48(404A,422).~~

~~g.—Any information the authority may require for program evaluation.~~

49.13(3) Review period. The authority will make best efforts to review Part 3 applications within 60 calendar days after the application is filed. However, this time frame is not binding upon the authority. The authority, in consultation with SHPO, shall review the information submitted by the eligible taxpayer and determine whether a tax credit certificate may be issued, including whether the eligible taxpayer has complied with federal standards. ~~See rule 261—49.17(404A) for more information on certificate issuance.~~

ITEM 17. Amend renumbered rule 261—49.15(404A) as follows:

261—49.15(404A) Compliance.

49.15(1) Annual reports. The eligible taxpayer shall, for the length of the agreement, annually certify to the authority compliance with the requirements of the agreement. ~~The certification shall be due each year on the anniversary of the date upon which the agreement was entered into. Instructions and forms may be obtained by contacting the authority or by visiting the authority’s Web site.~~

49.15(2) Burden of proof. The eligible taxpayer shall have the burden of proof to demonstrate to the authority that all requirements of the agreement, Iowa Code chapter 404A, and the applicable rules are satisfied. The taxpayer shall notify the authority in a timely manner of any changes in the qualification of the rehabilitation project or in the eligibility of the taxpayer to claim the tax credit provided under this chapter, or of any other change that may have a negative impact on the eligible taxpayer’s ability to successfully complete any requirement under the agreement.

49.15(3) Events of default, revocation, recapture. If, after entering into the agreement but before a tax credit certificate is issued, the eligible taxpayer or the qualified rehabilitation project no longer meets the requirements of the agreement, Iowa Code chapter 404A, and the applicable rules, the authority may find the taxpayer in default and may revoke the tax credit award.

~~a. Voluntary abandonment. An applicant may choose to irrevocably decline the tax credit that is the subject of the agreement at any time after the agreement is entered into. To irrevocably decline the tax credit, the applicant shall send a letter to the authority stating the applicant’s decision to irrevocably decline the tax credit. The authority shall notify the applicant by certified U.S. mail or courier acknowledge, in writing, that the tax credit has been irrevocably declined. The tax credit shall be reallocated to the extent permitted by Iowa Code section 404A.4. If the applicant wishes to apply for a tax credit on the same qualified rehabilitation project at a later date, the applicant must complete the application process as though the project is a new project.~~

~~b. Revocation and recapture for prohibited activity; liability of certain transferees. If Pursuant to Iowa Code section 404A.3(4)“c,” if an eligible taxpayer obtains a tax credit certificate from the authority by way of a prohibited activity, the eligible taxpayer and any transferee shall be jointly and severally liable to the state for the amount of the tax credits so issued, interest and penalties allowed under Iowa Code chapter 422, and reasonable attorney fees and litigation costs, except that the liability of the transferee shall not exceed an amount equal to the amount of the tax credits acquired by the transferee. The department of revenue, upon notification or discovery that a tax credit certificate was issued to an eligible taxpayer by way of a prohibited activity, shall revoke any outstanding tax credit and seek repayment of the value of any tax credit already claimed, and the failure to make such a repayment may be treated by the department of revenue in the same manner as a failure to pay the tax shown due~~

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

or required to be shown due with the filing of a return or deposit form. A qualifying transferee is not subject to the liability, revocation, and repayment imposed under this paragraph. For purposes of this paragraph:

(1) *“Control”* means when a person, directly or indirectly or acting through or together with one or more persons, satisfies any of the following:

1. Owns, controls, or has the power to vote 50 percent or more of any class of voting securities or voting membership interests of another person.

2. Controls, in any manner, the election of a majority of the directors, managers, trustees, or other persons exercising similar functions of another person.

3. Has the power to exercise a controlling influence over the management or policies of another person.

(2) *“Prohibited activity”* means a breach or default under the agreement with the authority, the violation of any warranty provided by the eligible taxpayer to SHPO or the authority, the claiming of a tax credit issued under this chapter for expenditures that are not qualified rehabilitation expenditures, the violation of any requirements of Iowa Code chapter 404A or rules adopted pursuant to Iowa Code chapter 404A, misrepresentation, fraud, or any other unlawful act or omission.

(3) *“Qualifying transferee”* means a transferee who acquires a tax credit certificate issued under this chapter for value, in good faith, without express or implied notice of a prohibited activity of the eligible taxpayer who was originally issued the tax credit, and without express or implied notice of any other claim to or defense against the tax credit, and which transferee is not associated with the eligible taxpayer by being one or more of the following:

1. An owner, member, shareholder, or partner of the eligible taxpayer who directly or indirectly owns and controls, in whole or in part, the eligible taxpayer.

2. A director, officer, or employee of the eligible taxpayer.

3. A relative of the eligible taxpayer or a person listed in paragraph “1” or “2” of this subparagraph or, if the eligible taxpayer or an owner, member, shareholder, or partner of the eligible taxpayer is a legal entity, the natural persons who ultimately own such legal entity.

4. A person who is owned or controlled, in whole or in part, by a person listed in paragraph “1” or “2” of this subparagraph.

(4) *“Relative”* means an individual related by consanguinity within the second degree as determined by common law, a spouse, or an individual related to a spouse within the second degree as so determined, and includes an individual in an adoptive relationship within the second degree.

ITEM 18. Amend renumbered rule 261—49.16(404A) as follows:

261—49.16(404A) Certificate issuance; claiming the tax credit. After determining whether the terms of the agreement, Iowa Code chapter 404A, and the applicable rules have been met, the authority shall issue a tax credit certificate to the eligible taxpayer stating the amount of tax credit under Iowa Code section 404A.2 the eligible taxpayer may claim, or the authority shall issue a notice that the eligible taxpayer is not eligible to receive a tax credit certificate. ~~The authority shall issue the tax credit certificate or the notice not later than 60 days following the completion of the examination review, if applicable, and the verifications required under this rule.~~ To receive the tax credit, an eligible taxpayer shall file a claim in accordance with any applicable administrative rules adopted by the department of revenue. Notwithstanding the foregoing, the eligibility of the tax credit remains subject to audit by the department of revenue in accordance with Iowa Code chapters 421 and 422. ~~For information on how to claim the tax credit, see department of revenue rules 701—42.55(404A,422), 701—52.48(404A,422), and 701—58.10(404A,422).~~

ITEM 19. Amend renumbered rule 261—49.17(303,404A) as follows:

261—49.17(303,404A) Appeals. ~~Any person wishing to contest an application denial, the amount of the tax credit award, award revocation, or any authority action that entitles the person to a contested case proceeding shall file an appeal, in writing, within 30 days of the action giving rise to the appeal.~~

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

~~Any person who does not seek an appeal within 30 days of the action that gives rise to a right to a contested case proceeding shall be precluded from challenging the action.~~ Appeals will be governed by the procedures set forth in this rule, together with the process set out in Iowa Code sections 17A.10 to 17A.19. Challenges to an action by the department of revenue related to tax credit transfers, claiming of tax credits, tax credit revocation, or repayment or recovery of tax credits must be brought pursuant to department of revenue 701—Chapter 7.

~~49.17(1) Contents.~~ The appeal shall contain the following in separate numbered paragraphs:

- ~~a.~~ A statement of the authority action giving rise to the appeal.
- ~~b.~~ The date of the authority action giving rise to the appeal.
- ~~c.~~ Each error alleged to have been committed, listed as a separate paragraph. For each error listed, an explanation of the error and all relevant facts related to the error shall be provided.
- ~~d.~~ Reference to the particular statutes, rules, or agreement terms involved, if known.
- ~~e.~~ A statement setting forth the relief sought.
- ~~f.~~ The signature of the person or that person's representative and the mailing addresses, telephone numbers, and e-mail addresses of the person and the person's representative.

~~49.17(2) Contested case proceedings.~~ The presiding officer in any contested case proceeding shall be an administrative law judge who specializes in tax matters.

ARC 6527C

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]

Notice of Intended Action

Proposing rule making related to Iowa comprehensive plan and providing an opportunity for public comment

The Homeland Security and Emergency Management Department hereby proposes to amend Chapter 9, "Iowa Comprehensive Plan," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 29C.8.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 29C.8.

Purpose and Summary

This proposed rule making updates antiquated terminology within the rules related to the Iowa Comprehensive Emergency Plan and makes changes to reflect current internal processes.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on October 11, 2022. Comments should be directed to:

Blake DeRouchey
 Department of Homeland Security and Emergency Management
 7900 Hickman Road, Suite 500
 Windsor Heights, Iowa 50324
 Phone: 515.323.4232
 Email: blake.derouchey@iowa.gov

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rule 605—9.1(29C) as follows:

605—9.1(29C) Description. Iowa Code section 29C.8 requires the director of the homeland security and emergency management department to prepare a comprehensive plan for homeland security, disaster response, recovery, mitigation, and emergency resource management for the state. This comprehensive plan is comprised of the following parts:

1. ~~Part A:~~ Iowa Emergency Response Plan.
2. ~~Part B:~~ Iowa Hazard Mitigation Plan.
3. ~~Part C:~~ Iowa Disaster Recovery Plan.
4. ~~Part D:~~ Iowa Critical Asset Protection Plan (confidential per Iowa Code section 22.7, Confidential records).

ITEM 2. Amend rule 605—9.2(29C) as follows:

605—9.2(29C) ~~Part A:~~ Iowa Emergency Response Plan. The ~~Part A:~~ Iowa Emergency Response Plan is developed in accordance with Iowa Code section 29C.8; and has been adopted, published, and maintained by the department. ~~Part A~~ This plan details the state government response to a wide range of natural, technological or human-caused disasters.

1. A digital copy of ~~Part A~~ this plan will be ~~placed in~~ provided to the state library located in the Ola Babcock Miller Building, 1112 East Grand Avenue, Des Moines, Iowa.
2. ~~Part A~~ This plan shall be distributed to state agencies and departments that have been assigned emergency functions and to all local emergency management agencies.
3. The Iowa Emergency Response Plan serves as the state disaster emergency response document.
4. ~~The department updates the plan by amendments promulgated by rule in accordance with Iowa Code chapter 17A and distributes amendments to all plan holders on the department distribution list.~~

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

~~5. 4.~~ ~~Part A~~ This plan shall be available for public view at the Homeland Security and Emergency Management Department, 7900 Hickman Road, Suite 500, Windsor Heights, Iowa.

ITEM 3. Amend rule 605—9.3(29C) as follows:

605—9.3(29C) Part B: Iowa Hazard Mitigation Plan. The ~~Part B:~~ Iowa Hazard Mitigation Plan is developed in accordance with Iowa Code section 29C.8, and has been adopted on September 17, 2018, published, and maintained by the department. ~~Part B~~ This plan details the state government goals, objectives, and strategies to mitigate a wide range of natural, technological, or human-caused disasters in accordance with Section 322 of the Stafford Act, 42 U.S.C. 5165.

1. A digital copy of ~~Part B~~ this plan will be ~~placed in~~ provided to the state library located in the Ola Babcock Miller Building, 1112 East Grand Avenue, Des Moines, Iowa.

2. ~~Part B~~ This plan shall be distributed to state agencies and departments that have participated in the writing of the plan or are assigned hazard mitigation functions and to all local emergency management agencies.

3. The Iowa Hazard Mitigation Plan serves as the state hazard mitigation document and demonstrates the state's commitment to reduce risks from natural, technological, and human-caused hazards and serves as a guide for the commitment of resources to reducing the effects of natural, technological, and human-caused hazards.

4. ~~The department updates the plan by amendments promulgated by rule in accordance with Iowa Code chapter 17A and distributes amendments to all plan holders on the department distribution list. Part B~~ Iowa Hazard Mitigation Plan shall be reviewed and amended as appropriate at a minimum of every five years.

5. ~~Part B~~ This plan shall be available for public view at the Homeland Security and Emergency Management Department, 7900 Hickman Road, Suite 500, Windsor Heights, Iowa.

ITEM 4. Amend rule 605—9.4(29C) as follows:

605—9.4(29C) Part C: Iowa Disaster Recovery Plan. The ~~Part C:~~ Iowa Disaster Recovery Plan is developed in accordance with Iowa Code section 29C.8, and has been adopted on September 17, 2018, published, and maintained by the department. ~~Part C~~ This plan details the state government goals, objectives, and strategies to recover from a wide range of natural, technological, or human-caused disasters.

1. A digital copy of ~~Part C~~ this plan will be ~~placed in~~ provided to the state library located in the Ola Babcock Miller Building, 1112 East Grand Avenue, Des Moines, Iowa.

2. ~~Part C~~ This plan shall be distributed to state agencies and departments that have been assigned recovery functions and to all local emergency management agencies.

3. The Iowa Disaster Recovery Plan serves as the state disaster recovery document.

4. ~~The department updates the plan by amendments promulgated by rule in accordance with Iowa Code chapter 17A and distributes amendments to all plan holders on the department distribution list. Part C~~ shall be reviewed and amended as appropriate at a minimum of every five years.

~~5. 4.~~ ~~Part C~~ This plan shall be available for public view at the Homeland Security and Emergency Management Department, 7900 Hickman Road, Suite 500, Windsor Heights, Iowa.

ARC 6528C

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

Notice of Intended Action

**Proposing rule making related to 911 telephone systems
and providing an opportunity for public comment**

The Homeland Security and Emergency Management Department hereby proposes to amend Chapter 10, “ 911 Telephone Systems,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 34A.22.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 34A.

Purpose and Summary

Primarily, this proposed rule making updates terminology and modernizes technical language as part of the Department’s five-year rules review.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on October 11, 2022. Comments should be directed to:

Blake DeRouchey
Department of Homeland Security and Emergency Management
7900 Hickman Road, Suite 500
Windsor Heights, Iowa 50324
Phone: 515.323.4232
Email: blake.derouchey@iowa.gov

Public Hearing

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

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rule 605—10.2(34A) as follows:

605—10.2(34A) Definitions. As used in this chapter, unless context otherwise requires:

“Access line” means an exchange access line that has the ability to access dial tone and reach a public safety answering point.

“Automatic location identification ~~(ALI)~~” or *“ALI”* means a system capability that enables an automatic display of information defining a geographical location of the telephone used to place the 911 call.

“Automatic number identification ~~(ANI)~~” or *“ANI”* means a capability that enables the automatic display of the number of the telephone used to place the 911 call.

~~*“Call attendant”* means the person who initially answers a 911 call.~~

“Call detail recording” means a means of establishing chronological and operational accountability for each 911 call processed, consisting minimally of the caller's telephone number, the date and time the 911 telephone equipment established initial connection (trunk seizure), the time the call was answered, the time the call was transferred (if applicable), the time the call was disconnected, the trunk line used, and the identity of the ~~call attendant's~~ public safety telecommunicator's position, also known as an ANI printout.

~~*“Call relay method”* means the 911 call is answered at the PSAP, where the pertinent information is gathered, and the call attendant relays the caller's information to the appropriate public or private safety agency for further action.~~

~~*“Call transfer method”* means the call attendant determines the appropriate responding agency and transfers the 911 caller to that agency.~~

“Central office ~~(CO)~~” or *“CO”* means a telephone company facility that houses the switching and trunking equipment serving telephones in a defined area.

“Coin-free access ~~(CFA)~~” or *“CFA”* means coin-free dialing or no-coin dial tone which enables a caller to dial 911 or “0” for operator without depositing money or incurring a charge.

“Communications service” means a service capable of accessing, connecting with, or interfacing with a 911 system by dialing, initializing, or otherwise activating the system exclusively through the digits 911 by means of a local telephone device, wireless communications device or any other device capable of interfacing with the 911 system.

~~*“Competitive local exchange service provider”* means the same as defined in Iowa Code section 476.96 34A.2.~~

~~*“Conference transfer”* means the capability of transferring a 911 call to the action agency and allowing the call attendant to monitor or participate in the call after it has been transferred to the action agency.~~

“Direct dispatch method” means 911 call answering and radio-dispatching functions, for a particular agency, are both performed at the PSAP.

“Director,” unless otherwise noted, means the director of the homeland security and emergency management department.

“Emergency call” means a telephone request or text message request for service which requires immediate action to prevent loss of life, reduce bodily injury, prevent or reduce loss of property and respond to other emergency situations determined by local policy.

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

“Emergency communications service surcharge” means a charge established by the program manager in accordance with Iowa Code section 34A.7A.

“Emergency services internet protocol network” or *“ESInet”* means a system using broadband packet-switched technology that is capable of supporting the transmission of varying types of data to be shared by all public and private safety agencies that are involved in an emergency.

“Enhanced 911 (~~E911~~)” or *“E911”* means the general term referring to emergency telephone systems with specific electronically controlled features, such as ALI, ANI, and selective routing.

“Enhanced 911 (~~E911~~)-operating authority” means the public entity at the state or local level, which operates an ~~E911~~ a 911 telephone system for the public benefit, within a defined enhanced 911 service area.

“Enhanced wireless 911 service, phase I” means an emergency wireless telephone system with specific electronically controlled features such as ANI, specific indication of wireless communications tower site location, selective routing by geographic location of the tower site.

“Enhanced wireless 911 service, phase II” means an emergency wireless telephone system with specific electronically controlled features such as ANI and ALI and selective routing by geographic location of the 911 caller.

“Entry point” means the demarcation point(s), as designated by the 911 program manager, where originating service providers must deliver their 911 traffic for ingress into the state’s next generation 911 network.

“Exchange” means a defined geographic area served by one or more central offices in which the telephone company furnishes services.

“Geographic information system” or *“GIS”* means a system designed to capture, store, manipulate, analyze, manage, and present spatial or geographical data.

“Implementation” means the activity between formal approval of an E911 service plan and a given system design, and commencement of operations.

“Joint 911 service board” means those entities that are created under the provisions of Iowa Code section 34A.3, which include the legal entities created pursuant to Iowa Code chapter 28E referenced in Iowa Code ~~subsection~~ section 34A.3(3); and that operate a 911 telephone system for the public benefit within a defined 911 service area.

“Local exchange carrier” means the same as defined in Iowa Code section ~~476.96~~ 34A.2.

“Multi-line telephone system” or *“MLTS”* means a system comprised of common control units, telephone sets, control hardware and software and adjunct systems, including network and premises-based systems, such as Centrex and VoIP, as well as PBX, Hybrid, and Key Telephone Systems and includes systems owned or leased by governmental agencies and nonprofit entities, as well as for-profit businesses.

“Next generation 911 network” means an internet protocol-enabled system that enables the public to transmit digital information to public safety answering points and is responsible for the delivery of all 911 messages within the state. “Next generation 911 network” replaces enhanced 911 and includes but is not limited to 911 voice and nonvoice messages generated by originating service providers, ESInet, GIS, cybersecurity, and other system components.

“Next generation 911 network service provider” means a vendor or vendors selected by the department to provide next generation 911 network functionality.

“911 call” means any telephone call that is made by dialing the digits 911.

“911 call processing equipment” means equipment owned by the department that functions in a host remote environment, provides 911 call processing functionality to public safety answering points, and utilizes the next generation 911 network. “911 call processing equipment” includes but is not limited to computer aided dispatch, voice logging recorders, mapping, and emergency medical dispatch.

“911 call processing equipment provider” means a vendor or vendors selected by the department to provide 911 call processing equipment.

“911 call transport provider” means a vendor or vendors selected by the department to deliver aggregated wireline 911 call traffic to the next generation 911 network and from the next generation 911 network to public safety answering points.

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

"911 communications council" means the council as established under the provisions of Iowa Code section 34A.15.

"911 program manager" means that person appointed by the director of the homeland security and emergency management department, and working with the 911 communications council, to perform the duties specifically set forth in Iowa Code chapter 34A and this chapter.

"911 service area" means the geographic area encompassing at least one entire county, and which may encompass a geographical area outside the one entire county not restricted to county boundaries, serviced or to be serviced under a 911 service plan.

"911 service plan" means a plan, produced by a joint 911 service board, which includes the information required by Iowa Code ~~subsection~~ section 34A.2(2) ~~as amended by 2018 Iowa Acts, House File 2254, section 2.~~

"911 system" means a telephone system that automatically connects a caller, dialing the digits 911, to a PSAP.

"Nonrecurring costs" means one-time charges incurred by a ~~joint E911 service board or operating 911~~ authority including, but not limited to, expenditures for E911 service plan preparation, capital outlay, communications equipment to receive and dispatch emergency calls, installation, and initial license to use subscriber names, addresses and telephone information.

"One-button transfer" means another term for a ~~(fixed) transfer which allows the call attendant to transfer an incoming call by pressing a single button. For example, one button would transfer voice and data to a fire agency, and another button would be used for police, also known as "selective transfer."~~

"Originating service provider" means a communications provider that allows its users or subscribers to originate 911 voice or nonvoice messages from the public to public safety answering points, including but not limited to wireline, wireless, and voice over internet protocol services.

"Political subdivision" means a geographic or territorial division of the state that would have the following characteristics: defined geographic area, responsibilities for certain functions of local government, public elections and public officers, and taxing power. Excluded from this definition are departments and divisions of state government and agencies of the federal government.

"Prepaid wireless telecommunications service" means a wireless communications service that provides the right to utilize mobile wireless service as well as other nontelecommunications services, including the download of digital products delivered electronically, content and ancillary services, which must be paid for in advance, and that is sold in predetermined units or dollars of which the amount declines with use in a known amount.

"Provider" means a person, company or other business that provides, or offers to provide, 911 equipment, installation, maintenance, or access services.

"Public or private safety agency" means a unit of state or local government, a special purpose district, or a private firm, which provides or has the authority to provide firefighting, police, ambulance, emergency medical services or hazardous materials response.

"Public safety answering point (PSAP)" or *"PSAP"* means a 24-hour, state, local, or contracted communications facility, which has been designated by the local service board to receive 911 service calls and dispatch emergency response services in accordance with the E911 service plan.

"Public safety telecommunicator" or *"telecommunicator"* means the same as defined in Iowa Code section 80B.11C

"Public switched telephone network" means a complex of diversified channels and equipment that automatically routes communications between the calling person and called person or data equipment.

"Recurring costs" means repetitive charges incurred by a ~~joint E911 service board or operating 911~~ authority including, but not limited to, personnel time directly associated with database management and personnel time directly associated with addressing, lease of access lines, lease of equipment, network access fees, communications equipment to receive and dispatch emergency calls, and applicable maintenance costs.

"Selective routing (SR)" or *"SR"* means a 911 system feature that enables all 911 calls originating from within a defined geographical region to be answered at a predesignated PSAP.

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

“*Subscriber*” means any person, firm, association, corporation, agencies of federal, state and local government, or other legal entity responsible by law for payment for communication service from the telephone utility.

“*Tariff*” means a document filed by a telephone company with the state telephone utility regulatory commission which lists the communication services offered by the company and gives a schedule for rates and charges.

“*Telecommunications device for the deaf (TDD)*” or “*TDD*” means any type of instrument, such as a typewriter keyboard connected to the caller’s telephone and involving special equipment at the PSAP which allows an emergency call to be made without speaking, also known as a TTY.

“*Telematics*” means a vehicle-based mobile data application which can automatically call for assistance if the vehicle is in an accident.

“*Trunk*” means a circuit used for connecting a subscriber to the public switched telephone network.

“*Voice over internet protocol service*” means a service to which all of the following apply:

1. The service provides real-time, two-way voice communications transmitted using internet protocol or a successor protocol.
2. The service is offered to the public, or such classes of users as to be effectively available to the public.
3. The service has the capability to originate traffic to, and terminate traffic from, the public switched telephone network or a successor network.

“*Wireless communications service*” means commercial mobile radio service. “Wireless communications service” includes any wireless two-way communications used in cellular telephone service, personal communications service, or the functional or competitive equivalent of a radio-telephone communications line used in cellular telephone service, a personal communications service, or a network access line. “Wireless communications service” does not include a service whose customers do not have access to 911 or 911-like service, a communications channel utilized only for data transmission, or a private telecommunications system.

“*Wireless communications service provider*” means a company that offers wireless communications service to users of wireless devices including but not limited to cellular, personal communications services, mobile satellite services, and enhanced specialized mobile radio.

“*Wireless E911 phase 1*” means a 911 call made from a wireless device in which the wireless communications service provider delivers the call-back number and the address of the tower that received the call to the appropriate public safety answering point.

“*Wireless E911 phase 2*” means a 911 call made from a wireless device in which the wireless communications service provider delivers the call-back number and the latitude and longitude coordinates of the wireless device to the appropriate public safety answering point.

“*Wireless NG911 service area*” means the geographic area to be served, or currently served, by a PSAP under a wireless NG911 service plan.

“*Wireline 911 service surcharge*” means a charge assessed on each wireline access line which physically terminates within the 911 service area in accordance with Iowa Code section 34A.7.

ITEM 2. Amend subrule 10.4(2) as follows:

10.4(2) The 911 service plan shall, at a minimum, encompass the entire county, unless a waiver is granted by the director. Each plan shall include:

a. to *k.* No change.

l. Maps of the 911 service area showing: boundaries for all of the law enforcement agencies, firefighting districts, and ambulance and emergency medical service areas, and the location of each PSAP within the service area shall be uploaded and maintained within the program’s online NG911 GIS database.

~~(1) The jurisdictional boundaries of all law enforcement agencies serving the area.~~

~~(2) The jurisdictional boundaries of all firefighting districts and companies serving the area.~~

~~(3) The jurisdictional boundaries of all ambulance and emergency medical service providers operating in the area.~~

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

~~(4) The location of PSAP(s) within the service area.~~

~~m. A block drawing for each telephone central office within the service area showing the method by which the 911 call will be delivered to the PSAP(s).~~

~~n. m. A plan to migrate to an internet protocol-enabled next generation network.~~

ITEM 3. Rescind subparagraph **10.9(3)“f”(1)**.

ITEM 4. Renumber subparagraphs **10.9(3)“f”(2) to (4)** as **10.9(3)“f”(1) to (3)**.

ITEM 5. Amend paragraph **10.11(1)“c”** as follows:

c. For joint 911 service boards, withdrawal of moneys from the 911 service fund shall be made on warrants drawn by the county auditor, per Iowa Code section 331.506, supported by claims and vouchers approved by the chairperson or vice chairperson of the joint 911 service board or ~~the appropriate operating authority~~ delegated authority so designated in writing.

ITEM 6. Amend paragraph **10.14(1)“c”** as follows:

c. ~~Ability to selectively route~~ Policy routing function.

ITEM 7. Amend subrule 10.14(2) as follows:

10.14(2) 911 public safety answering points shall adhere to the following minimum standards:

a. to e. No change.

~~f. If a call transfer method of handling 911 calls is employed, a 99 percent degree of reliability of transferred calls from a PSAP to responding agencies shall be maintained. All transferred calls shall employ, to the closest extent possible, conference transfer capabilities which provide that the call be announced and monitored by the PSAP operator to ensure that the call has been properly transferred.~~

~~g. PSAPs not employing the transfer method of handling 911 emergency calls shall use the call relay method. Information shall be exchanged between the PSAP receiving the call and an appropriate emergency response agency or dispatch center having jurisdiction in the area of the emergency. In no case during an emergency 911 call shall the caller be referred to another telephone number and required to hang up and redial. The call relay method shall also prevail in circumstances where emergency calls enter the 911 system (whether by design or by happenstance) from outside the E911 service area.~~

~~h. f. Access control and security of PSAPs and associated dispatch centers shall be designed to prevent disruption of operations and provide a safe and secure environment of communication operations.~~

~~i. g. PSAP supervision shall ensure that all telephone company employees, vendors whose normal activities may involve contact with facilities associated with the 911 service, are familiar with safeguarding of facilities' procedures.~~

~~j. h. Emergency electrical power shall be provided for the PSAP environment that will ensure continuous operations and communications during a power outage. Such power should start automatically in the event of power failure and shall have the ability to be sustained for a minimum of 48 hours.~~

~~k. i. The PSAP shall make every attempt to disallow the intrusion by automatic dialers, alarm systems, or automatic dialing and announcing devices on a 911 trunk. If intrusion by one of these devices should occur, those responsible for PSAP operations shall make every attempt to contact the responsible party to ensure there is no such further occurrence by notifying the party that knowing and intentional interference with emergency telephone calls constitutes a crime under Iowa Code section 727.5. Those responsible for PSAP operations shall report persons who repeatedly use automatic dialers, alarm systems, or automatic announcing devices on 911 trunk lines to the county attorney for investigation of possible violations of Iowa Code section 727.5.~~

~~l. j. Each PSAP shall be equipped with an appropriate telecommunications device for the deaf (TDD) in accordance with 28 CFR Part §35.162, July 26, 1991.~~

~~k. PSAPs will have the capability to access translation services to help process 911 calls from non-English speakers.~~

~~l. Each PSAP shall adhere to NENA STA-020.1-2020 or its subsequently updated equivalent.~~

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

ITEM 8. Amend subrule 10.14(3) as follows:

10.14(3) Originating service providers shall adhere to the following minimum requirements:

a. and *b.* No change.

c. ~~Access to the wireless 911 selective router and next generation 911 network shall be approved by the 911 program manager. Originating service providers must provide the company name, address and point of contact with their request. If the originating service provider utilizes a third-party vendor, the vendor must provide this information listing the vendor's customer's requested information. Originating service providers and MLTSs must update and maintain the state ALI database with accurate information. When delivering 911 calls, caller location must be provided in compliance with 47 CFR §9.8, 47 CFR §9.10, and 47 CFR §9.15.~~

d. Access to the 911 entry point and next generation 911 network shall be approved by the 911 program manager. Originating service providers must provide the company name, address and point of contact with their request. If the originating service provider utilizes a third-party vendor, the vendor must provide this information listing the vendor's customers requested information.

ITEM 9. Rescind subrule **10.14(4)**.

ARC 6535C

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

Notice of Intended Action

Proposing rule making related to radiological detection equipment and providing an opportunity for public comment

The Homeland Security and Emergency Management Department hereby proposes to rescind Chapter 11, "Repair, Calibration, and Maintenance of Radiological Monitoring, Detection, and Survey Equipment," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 29C.8.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 23A.2 and 29C.8.

Purpose and Summary

This proposed rule making rescinds Chapter 11, which relates to a function no longer performed by the Department. It also reserves Chapter 11 for future use.

Fiscal Impact

The Department received a small amount of fees for the calibration of radiological detection equipment. It was determined that this function was no longer sustainable within the Department, and the function was transferred to Iowa State University.

Jobs Impact

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

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on October 11, 2022. Comments should be directed to:

Blake DeRouchey
 Department of Homeland Security and Emergency Management
 7900 Hickman Road, Suite 500
 Windsor Heights, Iowa 50324
 Phone: 515.323.4232
 Email: blake.derouchey@iowa.gov

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Rescind and reserve **605—Chapter 11.**

ARC 6534C

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

Notice of Intended Action

**Proposing rule making related to mass notification and emergency messaging system and
 providing an opportunity for public comment**

The Homeland Security and Emergency Management Department hereby proposes to amend Chapter 15, “Mass Notification and Emergency Messaging System,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 29C.17A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 29C.17A.

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

Purpose and Summary

This proposed rule making updates rules related to the Mass Notification and Emergency Messaging System to reflect current practices. The need to amend the procedures was discovered through the Department's five-year rules review.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on October 11, 2022. Comments should be directed to:

Blake DeRouchey
Department of Homeland Security and Emergency Management
7900 Hickman Road, Suite 500
Windsor Heights, Iowa 50324
Phone: 515.323.4232
Email: blake.derouchey@iowa.gov

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend subrule 15.3(1), introductory paragraph, as follows:

15.3(1) A state agency or commission may apply to the department for access to the system for use by state, county and local officials. ~~The application is available on the department's Web site at www.homelandsecurity.iowa.gov.~~ The application shall contain the following:

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

ITEM 2. Rescind subrule **15.4(3)**.

ITEM 3. Renumber subrules **15.4(4)** and **15.4(5)** as **15.4(3)** and **15.4(4)**.

ITEM 4. Amend renumbered subrule 15.4(4) as follows:

15.4(4) The department has developed an operational plan and procedures template to be used by all state agencies and commissions making application to access the system. All operational plans and procedures developed by the state agencies or commissions and submitted for approval shall substantially conform to this template. ~~This template is available on the department's Web site at www.homelandsecurity.iowa.gov.~~

ARC 6526C

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

Notice of Intended Action

**Proposing rule making related to required report submissions
and providing an opportunity for public comment**

The Homeland Security and Emergency Management Department hereby proposes to amend Chapter 104, "Required Reports and Records," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 30.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 30.2.

Purpose and Summary

This proposed rule making updates the address for submission of the reports required under the Emergency Planning and Community Right-to-Know Act. Updates to the implementation sentences for rules 605—104.1(30) and 605—104.2(30) are also proposed in order to update references to obsolete Iowa Code sections.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on October 11, 2022. Comments should be directed to:

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

Blake DeRouchey
 Department of Homeland Security and Emergency Management
 7900 Hickman Road, Suite 500
 Windsor Heights, Iowa 50324
 Phone: 515.323.4232
 Email: blake.derouchey@iowa.gov

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rule **605—104.1(30)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~sections 30.5 and 30.9~~ section 30.2.

ITEM 2. Amend subrule 104.2(5) as follows:

104.2(5) Submissions. Written notifications and reports required under this rule shall be submitted to the Department of Natural Resources, ~~7900 Hickman Road, Suite 200, Windsor Heights, Iowa 50324~~ EPCRA, 502 East 9th Street, Des Moines, Iowa 50319. ~~For additional~~ Additional information, ~~see~~ can be found in rule 567—131.2(455B).

ITEM 3. Amend rule **605—104.2(30)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~sections 30.5 and 30.8~~ 30.2 and 30.4.

ARC 6529C**HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action****Proposing rule making related to five-year rules review
and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 85, “Services in Psychiatric Institutions,” Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

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

HUMAN SERVICES DEPARTMENT[441](cont'd)

Purpose and Summary

Chapter 85 was reviewed as part of the Department's five-year rules review. As part of this review, federal code references and cross-references to other Department chapters are proposed to be updated. Obsolete form names are proposed to be removed from the rules. The locations of the state mental health institutes are proposed to be updated.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on October 11, 2022. Comments should be directed to:

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

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

- ITEM 1. Amend subparagraph **85.1(1)“a”(5)** as follows:
- (5) Is under the jurisdiction of the ~~division of behavioral, developmental, and protective services for families, adults, and children of the department.~~

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 2. Amend rule 441—85.2(249A) as follows:

441—85.2(249A) Out-of-state placement. Placement in an out-of-state psychiatric hospital for acute care requires prior approval by the bureau of managed care and clinical services and shall be approved only if special services are not available in Iowa facilities ~~as determined by the division of behavioral, developmental, and protective services for families, adults, and children.~~

ITEM 3. Amend subrule 85.3(3) as follows:

85.3(3) Certification of need for care. For persons eligible for Medicaid prior to admission, an independent team shall certify that ambulatory care resources available in the community do not meet the treatment needs of the recipient, that proper treatment of the recipient's psychiatric condition requires services on an inpatient basis under the direction of a physician, and that the services can reasonably be expected to improve the recipient's condition or prevent further regression so that the services will no longer be needed. Team members are independent when they are not employees of or consultants to the facility. Form 470-2780, ~~Certification of Need for Inpatient Psychiatric Services,~~ may be used to document these criteria.

a. to c. No change.

ITEM 4. Amend subrule 85.3(4) as follows:

85.3(4) Financial eligibility for persons under the age of 21. To be eligible for payments for the cost of care provided by a psychiatric facility, persons under the age of 21 must be eligible under one of the coverage groups listed in ~~rule 441—75.1(249A)~~ 441—Chapter 75.

ITEM 5. Amend rule 441—85.4(249A) as follows:

441—85.4(249A) Eligibility of persons aged 65 and over. To be eligible for payment for the cost of care provided by an institution for mental disease, persons must be aged 65 or over and be eligible under one of the coverage groups listed in ~~rule 441—75.1(249A)~~ 441—Chapter 75.

ITEM 6. Amend subrule 85.5(1) as follows:

85.5(1) Before July 2005. For months before July 2005, the resident shall be liable to pay client participation toward the cost of care on a monthly basis. The state will pay the balance of the cost of care for the month. The facility shall make arrangements directly with the resident for payment of client participation. Client participation is determined according to ~~rule 441—75.16(249A)~~ 441—Chapter 75.

ITEM 7. Amend paragraph **85.6(2)“a”** as follows:

a. ~~A Case Activity Report,~~ Form 470-0042, shall be submitted to the department whenever a Medicaid applicant or recipient enters the facility, changes level of care, is hospitalized in a general hospital, leaves for visitation, or is discharged from the facility.

ITEM 8. Amend paragraph **85.7(1)“b”** as follows:

b. Allowable costs are those defined as allowable in 42 CFR, Subpart A, Sections 413.5 and 413.9, as amended to ~~December 2, 1996~~ June 15, 2022, and 42 CFR 447.250 as amended to ~~September 23, 1992~~ June 15, 2022. Only those costs are considered in calculating the Medicaid inpatient reimbursement.

ITEM 9. Amend subrule 85.8(1) as follows:

85.8(1) Facility. Acute care in a psychiatric hospital is covered for persons aged 21 through 64 only at the state mental health institutes at Cherokee, ~~Clarinda,~~ and Independence, ~~and Mount Pleasant.~~

ITEM 10. Amend subrule 85.8(2) as follows:

85.8(2) Basis of eligibility. To be eligible for payment for the cost of care provided by one of the covered facilities, a person aged 21 through 64 must be ~~either:~~ eligible for one of the coverage groups listed in 441—Chapter 75.

a. ~~Eligible for one of the coverage groups listed in 441—75.1(249A); or~~

b. ~~Eligible under the IowaCare program pursuant to 441—Chapter 92.~~

ITEM 11. Amend subrule 85.8(4) as follows:

85.8(4) Extent of eligibility.

HUMAN SERVICES DEPARTMENT[441](cont'd)

~~a.~~ While on inpatient status, a person eligible under a coverage group listed in 441—75.1(249A) is entitled to the full scope of Medicaid benefits.

~~b.~~ While on inpatient status, a person eligible under the IowaCare program is entitled to the services listed at 441—92.8(249A,81GA, ch167).

ITEM 12. Amend subrule 85.22(3) as follows:

85.22(3) Certification for need for care. For persons eligible for Medicaid prior to admission, an independent team shall certify that ambulatory care resources available in the community do not meet the treatment needs of the recipient, that proper treatment of the recipient's psychiatric condition requires services on an inpatient basis under the direction of a physician, and that the services can reasonably be expected to improve the recipient's condition or prevent further regression so that the services will no longer be needed. Team members are independent when they are not employees of or consultants to the facility. Form 470-2780, ~~Certification of Need for Inpatient Psychiatric Services~~, may be used to document these criteria.

a. to c. No change.

ITEM 13. Amend subrule 85.22(4) as follows:

85.22(4) Financial eligibility for persons under the age of 21. To be eligible for payments for the cost of care provided by psychiatric medical institutions, persons under the age of 21 shall be eligible under one of the coverage groups listed in rule 441—75.1(249A) 441—Chapter 75, except medically needy.

ITEM 14. Amend rule 441—85.23(249A) as follows:

441—85.23(249A) Client participation. The resident's client participation and medical payments from a third party shall be paid toward the total cost of care on a monthly basis. The state will pay the balance of the cost of care for the month. The facility shall make arrangements directly with the resident for payment of client participation. Client participation is determined according to rule 441—75.16(249A) 441—Chapter 75.

ITEM 15. Amend paragraph **85.24(2)“a”** as follows:

a. ~~A Case Activity Report~~, Form 470-0042, shall be submitted to the department whenever a Medicaid applicant or recipient enters the facility, changes level of care, is hospitalized, leaves for visitation, or is discharged from the facility.

ITEM 16. Amend paragraph **85.25(1)“a”** as follows:

a. Rates for new facilities are based on historical costs submitted on Form 470-0664, ~~Financial and Statistical Report for Purchase of Service Contracts~~, if the institution is established and has the historical data. If the institution is newly established, the rate shall be based on a proposed budget submitted on Form 470-0664. A Form 470-0664 with actual cost data shall be submitted after at least six months of participation in the program for a new rate adjustment.

ITEM 17. Amend rule 441—85.43(249A) as follows:

441—85.43(249A) Eligibility of persons aged 65 and over. To be eligible for payment for the cost of care provided by nursing facilities for persons with mental illness, persons must be aged 65 or over and be eligible under one of the coverage groups listed in rule 441—75.1(249A) 441—Chapter 75, except for medically needy.

ITEM 18. Amend rule **441—85.47(249A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~Supplement~~ section 249A.30A.

ARC 6536C**HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action****Proposing rule making related to foster parent training
and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 117, “Foster Parent Training,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 237.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 237.3.

Purpose and Summary

The rules in Chapter 117 were reviewed as part of the Department’s five-year rules review. This proposed rule making reduces the minimum number of persons required to be in a group for preservice foster parent training. Each foster parent is required to complete preservice training before licensure. Before a foster parent is licensed, the individual must complete a variety of agency-approved training courses that teach foster parents how to support a child’s overall well-being and emotional needs.

This proposed rule making allows in-service training to be provided either face-to-face or through interactive virtual training when provided to a group or an individual foster family. The proposed rule making requires foster parents to be certified in first aid every two years instead of every three years as currently required. The requirement to complete the course “Caring for Children with HIV” or an approved alternative course that contains information on the unique aspects of pediatric HIV disease, transmission and infection control, the spectrum of HIV disease, confidentiality, death and bereavement, and self-care for the caregiver is proposed to be rescinded because communicable diseases are covered by other trainings. This rule making also adds a requirement that the Department’s recruitment and retention contractor be notified if a foster parent elects not to receive a training stipend.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on October 11, 2022. Comments should be directed to:

HUMAN SERVICES DEPARTMENT[441](cont'd)

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

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend paragraph **117.1(2)“d”** as follows:

d. Group method. The program shall be provided in groups that consist of ~~six~~ three or more persons. The training shall be offered to a foster family individually only when the foster family is unable to attend group training for reasons such as serious medical conditions, as approved by the social work administrator or designee.

ITEM 2. Amend subrule 117.1(4) as follows:

117.1(4) Additional preservice training. Before licensure, each foster parent shall complete training in an agency-approved medication management course, cardiopulmonary resuscitation (CPR), first aid, the reasonable and prudent parent standard, and the mandatory reporter training on child abuse identification. Training shall also be completed that teaches foster parents how to support a child’s overall well-being and emotional needs.

ITEM 3. Amend rule 441—117.3(237), introductory paragraph, as follows:

441—117.3(237) Application materials for in-service training. Applications for approval of an in-service training program shall be submitted on Form 470-2541, ~~Foster Parent Training Application~~, and must be approved before the delivery of the training. Applications submitted after a training is completed shall not be approved.

ITEM 4. Amend subrule 117.5(3) as follows:

117.5(3) Denial. Preservice training programs which do not meet the requirements in rules 441—117.1(237), 441—117.3(237), and 441—117.4(237) and in-service training programs which do not meet the criteria in rules 441—117.3(237), 441—117.4(237) and 441—117.7(237) shall be denied approval. The applicant may submit a revised program for approval at a later date.

ITEM 5. Amend rule 441—117.7(237), introductory paragraph, as follows:

441—117.7(237) Required in-service training. At least six hours of in-service training are required to assist foster parents in confidently and effectively addressing the needs of children placed in foster care. ~~The Foster Parent Training Plan~~, Form 470-3341, shall be used to address in-service training needs. The training plan shall be developed with the department or retention and recruitment contractor and the foster parent annually.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 6. Amend subparagraphs **117.7(2)“b”(1)** and **(2)** as follows:

- (1) Face-to-face or interactive virtual training to a group.
- (2) Face-to-face or interactive virtual training to an individual foster family.

ITEM 7. Amend paragraph **117.7(2)“c”** as follows:

c. Credit hours. Credit hours for approved training shall be as follows:

- (1) Group training shall receive one credit hour for each face-to-face or interactive virtual contact hour.
- (2) Written materials shall receive one credit hour for each 100 pages.
- (3) DVDs or videotapes shall receive one credit hour for each two program hours.
- (4) College courses shall receive one credit hour for each college credit hour.
- (5) Internet training classes shall receive one credit hour for each program hour. A maximum of three hours of training credit per year may be earned through the ~~Web-site~~ website www.fosterparents.com.

ITEM 8. Amend paragraph **117.7(3)“c”** as follows:

c. Documentation. Each individual foster parent shall submit Form 470-2540, ~~Foster Parent Training Report~~, to the recruitment and retention contractor within 30 days after completion of each in-service training.

ITEM 9. Amend subrule 117.8(2) as follows:

117.8(2) First aid. All foster parents shall be certified in first aid at least every ~~three~~ two years and shall maintain their first-aid certification and a certificate or card indicating the date of training and expiration.

ITEM 10. Rescind subrule **117.8(4)**.

ITEM 11. Amend subrule 117.9(1) as follows:

117.9(1) Training stipend. Each family that is issued an initial or renewal foster family home license shall receive a \$100 stipend to be used for the family’s annual in-service training. The department’s recruitment and retention contractor shall issue one stipend per license on or after the date that the license is issued. When a family with a two-year foster family home license has completed the first training cycle of six hours of in-service training, the contractor shall issue the next training stipend no earlier than the start of the second year of licensure contingent upon the foster family’s completion of the in-service training hours in the first cycle. Foster families who elect not to receive the \$100 stipend shall notify the department and the contractor.

ARC 6530C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

**Proposing rule making related to five-year rules review
and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 133, “IV-A Emergency Assistance Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 234.6 and 235.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 234.6 and 235.3.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Purpose and Summary

This chapter was reviewed as part of the Department's five-year rules review. The definition of "child" is proposed to be updated to match the Temporary Assistance for Needy Families (TANF) definition of "child." The definition of "emergency assistance" is proposed to be revised to remove tracking, monitoring, and outreach services from the list of possible services that may be provided in response to a IV-A emergency assistance application. Tracking, monitoring, and outreach services are also proposed to be removed from the list of services for which an applicant must have a need to be eligible for emergency assistance. The rule that authorized tracking, monitoring, and outreach services (441—151.33(232)) was rescinded effective May 1, 2016. The list of specified relatives a child must be living with or have lived with in the past six months is proposed to be expanded to match current policy. A reference to the food assistance program is proposed to be updated to the Supplemental Nutrition Assistance Program (SNAP) to reflect a change to the name of the program.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on October 11, 2022. Comments should be directed to:

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

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 1. Amend rule **441—133.1(235)**, definitions of “Child” and “Emergency assistance,” as follows:

“Child” means a person under 18 years of age, or a person 18 or 19 years of age who meets any of the following conditions:

1. Is in full-time attendance at an accredited school pursuing a course of study leading to a high school diploma,
2. Is attending an instructional program leading to a high school equivalency diploma, or
3. Has been identified by the director of special education of an area education agency as a child requiring special education as defined in Iowa Code section 256B.2(1) “a.”

A person over 18 years of age who has received a high school diploma or a high school equivalency diploma is not a child within this definition.

“Emergency assistance” means any one or more of the following services provided in response to a IV-A emergency assistance application:

1. Family-centered services as set forth in 441—Chapter 172.
2. Shelter care as set forth in 441—Chapters 156 and 202, except for placements of less than 48 hours.
3. Protective child care as set forth in 441—Chapter 170.
4. ~~Tracking, monitoring, and outreach as set forth in 441—Chapter 151, Division III.~~

ITEM 2. Amend subrule 133.3(3) as follows:

133.3(3) Residence. ~~The child is living, or within six months prior to the month in which assistance is requested has been living, with one or both parents, or a grandparent, adoptive parent, stepparent, sibling, aunt, uncle or cousin in a place of residence maintained as the child’s own home~~ a specified relative. ~~“Relative” includes people related by blood, marriage, or adoption. The child may be considered as meeting the requirement of living with a specified relative if the child’s home is with one of the following or with a spouse of one of the following even though the marriage is terminated by death or divorce:~~

- a. Father—adoptive father.
- b. Mother—adoptive mother.
- c. Grandfather—grandfather-in-law, meaning the subsequent husband of the child’s natural grandmother, i.e., stepgrandfather—adoptive grandfather.
- d. Grandmother—grandmother-in-law, meaning the subsequent wife of the child’s natural grandfather, i.e., stepgrandmother—adoptive grandmother.
- e. Great-grandfather—great-great-grandfather.
- f. Great-grandmother—great-great-grandmother.
- g. Stepfather, but not his parents.
- h. Stepmother, but not her parents.
- i. Brother—brother-of-half-blood—stepbrother—brother-in-law—adoptive brother.
- j. Sister—sister-of-half-blood—stepsister—sister-in-law—adoptive sister.
- k. Uncle—~~aunt, of whole or half blood.~~
- l. Uncle-in-law—~~aunt-in-law.~~
- m. Great uncle—~~great-great-uncle.~~
- n. Great aunt—~~great-great-aunt.~~
- o. First cousins—~~nephews—nieces.~~
- p. Second cousins, meaning the son or daughter of one’s parent’s first cousin.

ITEM 3. Amend subrule 133.3(4) as follows:

133.3(4) Service need. The applicant must demonstrate a need for one or more of the emergency assistance services as follows:

- a. Family-centered services as established in 441—Chapter 172.
- b. Shelter care as established at rule 441—202.2(234).
- c. Protective child care as established at 441—subparagraph 170.2(2) “b”(3).
- d. ~~Tracking, monitoring, and outreach as established at rule 441—151.33(232).~~

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 4. Amend paragraph **133.3(6)“a”** as follows:

a. Is receiving FIP, SSI, ~~food assistance~~ Supplemental Nutrition Assistance Program (SNAP) benefits, or Medicaid in the month of the application, or

ITEM 5. Amend rule 441—133.4(235) as follows:

441—133.4(235) Method of service provision. ~~Except for tracking, monitoring, and outreach services, services~~ Services shall be provided through department workers or through purchase of service agreements with providers that are approved by the department as qualified to provide specified services and have a current contract with the department of human services to provide services.

ARC 6531C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to the in-home health-related care program and providing an opportunity for public comment

The Human Services Department hereby proposes to amend Chapter 177, “In-Home Health-Related Care,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 249.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 249.

Purpose and Summary

This chapter was reviewed as part of the Department’s five-year rules review. Currently the In-Home Health-Related Care (IHHRC) program requires a registered nurse to provide supervision of a client’s care plan in order for the client to receive services. Over the past several years, the Department has experienced more nursing agencies opting out of providing supervision services for this program. Several counties have no nursing agencies willing to provide the supervision necessary for the program services. This results in individuals being enrolled in the program with physicians having to provide supervision, which is an unreasonable expectation, or individuals being enrolled in the program without a supervising practitioner, which requires an exception to the administrative rule. Medicaid programs providing similar services under the home- and community-based programs do not require a supervising practitioner when the service being provided is considered unskilled or is for personal care services.

These proposed amendments remove the requirement of nursing supervision for unskilled personal care services and maintain the requirement of nursing supervision for skilled services. Proposed amendments also identify how the program is implemented from the application process through termination, if termination is necessary.

Fiscal Impact

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

Jobs Impact

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

HUMAN SERVICES DEPARTMENT[441](cont'd)

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on October 11, 2022. Comments should be directed to:

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

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rule 441—177.1(249) as follows:

441—177.1(249) In-home health-related care. ~~In-home health-related care is a program of designed to provide nursing care in an individual’s own home, as defined in rule 441—177.2(249), to provide personal services to an individual because such individual’s state of~~ whose physical, developmental, or mental health prevents independent self-care.

ITEM 2. Amend rule 441—177.2(249) as follows:

441—177.2(249) Own home Definitions. ~~Own home means an individual’s house, apartment, or other living arrangement intended for single or family residential use.~~

“Client participation” has the meaning assigned to it in rule 441—177.10(249).

“Nursing care” includes skilled services and personal care services.

“Own home” means an individual’s house, apartment, or other living arrangement intended for single or family residential use.

“Personal care services” includes:

1. Services that assist a client with the activities of daily living, such as, but not limited to, helping the client with bathing, toileting, getting in and out of bed, ambulation, hair care, oral hygiene and administering medications that are physician-ordered but ordinarily self-administered.

2. Services that help or retrain the client in necessary skills for daily living.

HUMAN SERVICES DEPARTMENT[441](cont'd)

3. Incidental household services that are essential to the client's health care at home and are necessary to prevent or postpone institutionalization.

"Skilled nursing services" are services for which an individualized assessment of a patient's clinical condition demonstrates that the specialized judgment, knowledge, and skills of a registered nurse or, when provided by regulation, a licensed practical (vocational) nurse ("skilled care") are necessary.

"Skilled services" include skilled nursing services or other services that, based on a physician's certification, are required to be performed under the supervision of a physician, nurse practitioner, clinical nurse specialist, or physician assistant.

"Supervising practitioner" means a physician, nurse practitioner, clinical nurse specialist, or a physician assistant qualified to supervise skilled services.

ITEM 3. Rescind rule 441—177.3(249) and adopt the following **new** rule in lieu thereof:

441—177.3(249) Service criteria.

177.3(1) Skilled services. Skilled services must be certified by a physician as provided in rule 441—177.6(249) and must be supervised by a supervising practitioner.

177.3(2) Personal care services. Personal care services must be certified by a physician as provided in rule 441—177.6(249). Personal care services do not require supervision by a supervising practitioner.

ITEM 4. Amend rule 441—177.4(249) as follows:

441—177.4(249) Eligibility and application.

177.4(1) Eligible individual Eligibility. To be eligible for in-home health-related care:

a. The individual shall ~~shall~~ **must** be eligible for supplemental security income in every respect except for income.

b. ~~The physician's certification shall include a statement of the specific health care services and that the A physician must certify in accordance with rule 441—177.6(249) that the individual requires either skilled services or personal care services and that those services can be provided in the individual's own home. The certification shall be given on a form prescribed by the department or on a similar plan of care form presently used by public health agencies provided using Form 470-0673.~~

c. The individual shall live in the individual's own home. ~~Notwithstanding the foregoing, an individual will remain eligible for a period not to exceed 15 days in any calendar month when the client is temporarily absent from the client's home.~~

d. ~~The client shall require and be receiving qualified health care services. Qualified health care services are health care services supervised by a registered nurse and approved by individual shall obtain a physical examination report annually and shall be under the supervision of a physician.~~

e. The required skilled services or personal care services must not be available under any other state or federal program.

~~**177.4(7) f. Income for adults.** The countable income of the individual and spouse living in the home shall be limited to \$480.55 per month if one needs care or \$961.10 if both need care, after the following disregards from gross income:~~

~~a. (1) The amount of the basic supplemental security income standard for an individual or a couple, as applicable.~~

~~b. (2) When income is earned, \$65.00 plus one-half of any remaining income.~~

~~c. (3) The amount of the supplemental security income standard for a dependent plus any established unmet medical needs, for each dependent living in the home. Any income of the dependent shall be applied to the dependent's needs before making this disregard.~~

~~d. (4) The amount of the established medical needs of the ineligible spouse which are not otherwise met.~~

~~e. (5) The amount of the established medical needs of the applicant or recipient which are not otherwise met and would not be met if the individual were eligible for the medical assistance program.~~

~~f. Rescinded, effective 7/1/84.~~

~~**177.4(8) g. Income for children.** Income for children.~~

HUMAN SERVICES DEPARTMENT[441](cont'd)

~~a. (1)~~ All income received by the parents in the home shall be deemed to the child with the following disregards:

~~(1) 1.~~ The amount of the basic supplemental security income standard for an individual when there is one parent in the home or for a couple when there are two parents in the home.

~~(2) 2.~~ The amount of the basic supplemental security income standard for a dependent for each ineligible child in the home.

~~(3) 3.~~ The amount of the unmet medical needs of the parents and ineligible dependents.

~~(4) 4.~~ When all income is earned, an additional basic supplemental security income standard for an individual in a one-parent home or for a couple in a two-parent home.

~~(5) 5.~~ When the income is both earned and unearned, \$65.00 plus one-half of the remainder of the earned income.

~~b. (2)~~ The countable income of the child shall be limited to \$480.55 per month after the following disregards from gross income:

~~(1) 1.~~ The amount of the basic supplemental security income standard for an individual.

~~(2) 2.~~ The amount of the established medical needs of the child which are not otherwise met and would not be met if the child were eligible for the medical assistance program.

~~(3) 3.~~ One-third of the child support payments received from an absent parent.

~~c. Rescinded, effective 7/1/84.~~

~~177.4(2) Relationship to other programs.~~ In-home health-related care shall be provided only when other programs cannot meet the client's need. There shall be no duplication of services.

~~177.4(3) Maximum costs.~~ The maximum cost of service shall be \$480.55. The provider shall accept the payment made and shall make no additional charges to the recipient or others.

~~177.4(4) Service plan.~~ A complete service plan shall be prepared which includes the services needed, the plan for providing these services, and the health care plan defined in rule 441—177.6(249). The service plan shall be developed following consultation between the client's service worker and case manager to avoid all duplication of services. Consultation shall include current services provided to the client, payer sources, level of service needs, and service history.

~~177.4(5) Certification procedure.~~ The approval of the case plan by the service area manager or designee shall constitute certification and approval for payment.

~~177.4(6) Temporary absence from home.~~ The client will remain eligible and payment will be made for services for a period not to exceed 15 days in any calendar month when the client is absent from the home for a temporary period. Payment will not be authorized for over 15 days for any continuous absence whether or not the absence extends into a succeeding month or months.

~~177.4(9) Payment.~~ The client or the person legally designated to handle the client's finances shall be the sole payee for payments made under the program and shall be responsible for making payment to the provider except when the client payee becomes incapacitated or dies while receiving service.

~~a.~~ The department shall have the authority to issue one payment to a provider on behalf of a client payee who becomes incapacitated or dies while receiving service.

~~b.~~ When continuation of an incapacitated client payee in the program is appropriate, the department shall assist the client and the client's family to legally designate a person to handle the client's finances. Guardians, conservators, protective or representative payees, or persons holding power of attorney are considered to be legally designated.

~~c.~~ Payment for the program shall be approved effective as of the date of application or the date all eligibility requirements are met and qualified health care services are provided, whichever is later, notwithstanding 42 U.S.C. 1382(c)(7).

~~177.4(10) 177.4(2) Application.~~ Application for in-home health-related care shall be made on a form prescribed by Form 470-5170 or 470-5170(S) and submitted to the department. An eligibility determination shall be completed within 30 days from the date of the application, unless one or more of the following conditions exist:

~~a. to d.~~ No change.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 5. Amend rule 441—177.5(249) as follows:

441—177.5(249) Providers Qualifications of providers of health care services.

177.5(1) Age. The provider shall be at least 18 years of age.

177.5(2) Health assessment. The provider shall obtain certification on Form 470-0672 that the provider is physically and emotionally capable of providing assistance to another person ~~who may have physical and emotional limitations~~ whose physical, developmental or mental health prevents independent self-care.

a. The certification shall be based on an examination performed by:

- (1) a A physician; or
- (2) An advanced registered nurse practitioner or by a physician assistant who if the nurse practitioner or physician assistant is working under the direction of a physician.

b. If the provider works for an agency, the practitioner performing the examination may not be employed by the same agency.

~~*b. c.* The practitioner conducting the examination shall indicate sign the certification by signing the provider health assessment.~~

~~*e. d.* The certification shall be submitted to the department service worker:~~

- (1) Before the provider agreement is signed, and
- (2) Annually thereafter.

177.5(3) Qualifications. The provider shall be qualified by training and experience to carry out the health care plan as specified in ~~rule 177.4(4)~~ subrule 177.7(1).

177.5(4) No change.

ITEM 6. Rescind rule 441—177.6(249) and adopt the following new rule in lieu thereof:

441—177.6(249) Physician's certification.

177.6(1) Certification requirements. A physician must certify on Form 470-0673:

a. That the skilled services or personal care services are required by the person's physical, developmental or mental health;

b. The specific skilled services or personal care services required, the method of providing those services, and the expected duration of services; and

c. That the required skilled services and personal care services can be delivered in the individual's own home.

177.6(2) Certification review. After certification and any subsequent recertification, a physician must review the certification and withdraw, renew, or amend the existing certification:

- a.* No later than the 180th day after the existing certification;
- b.* More frequently than the 180th day after the existing certification if required by the physician, the service worker, or a supervising practitioner; or
- c.* Upon notification of initiation of Medicaid waiver services.

ITEM 7. Rescind rule 441—177.7(249) and adopt the following new rule in lieu thereof:

441—177.7(249A) Service worker duties.

177.7(1) Service plan.

a. In consultation with the client's case manager and any supervising health practitioner, the service worker shall create a complete service plan for the client. The plan must avoid duplication of services and include all of the following:

- (1) All of the services certified by a physician under rule 441—177.6(249).
- (2) Payer sources. In-home health-related care shall be provided only when other programs cannot meet the client's need.
- (3) Level of service needs.
- (4) Service history. If the client is being transferred from a medical hospital or long-term care facility, the service worker shall also obtain a transfer document describing the client's current care plan.

HUMAN SERVICES DEPARTMENT[441](cont'd)

b. In consultation with the client's case manager and any supervising health practitioner, the service worker shall review and update the service plan on or before the ninetieth day following the creation of or previous review of the service plan. The updated service plan must comply with paragraph 177.7(1)"a."

177.7(2) *Change in condition.* If the service worker becomes aware of any changes in the individual's condition, including discharge from a facility, that could require a change in the services provided, the service worker shall ensure that a physician reviews the existing certification and that the existing certification is either withdrawn, renewed, or amended.

ITEM 8. Rescind rule 441—177.8(249) and adopt the following new rule in lieu thereof:

441—177.8(249) Supervising practitioner duties.

177.8(1) *Instruction.* The supervising practitioner shall provide instruction specific to each patient and the services each patient is receiving, including but not limited to instruction on documentation the worker should be creating and instruction on warning signs of which the worker should be aware.

177.8(2) *Schedule for reviewing documentation.* The supervising practitioner shall set up a schedule for reviewing documentation that is specific to the services being provided to that particular patient and shall review the documentation according to the schedule.

177.8(3) *Medical records.*

a. The supervising practitioner shall keep appropriate medical records, a copy of the service plan, and the physician's certification in the supervising practitioner's case file. In addition, the medical records shall include, whenever appropriate, transfer forms, physician's orders, progress notes, drug administration records, treatment records, and incident reports.

b. The supervising practitioner shall make all medical records available to the service worker, the client, and the client's legal representative.

c. The supervising practitioner shall ensure that, upon termination of the in-home care plan, the medical records are transferred to the county office of the department of human services or the office of the public health nurse.

d. The department of human services or the office of the public health nurse shall retain medical records transferred to it under paragraph 177.8(3)"c" for five years or, if an audit is commenced within the five years, until completion of that audit. During the period of retention, the department of human services or the office of the public health nurse shall make the medical records available to the service worker.

ITEM 9. Amend rule 441—177.9(249) as follows:

441—177.9(249) Written agreements.

177.9(1) *Independent contractor.* The provider shall be an independent contractor and shall ~~in no~~ sense not be an agent, employee or servant of the state of Iowa, the Iowa department of human services, or any of its employees; or ~~of its~~ clients.

177.9(2) *Liability coverage.* All professional health care providers shall have adequate liability coverage consistent with their responsibilities, as since the department of human services assumes no responsibility for, or liability for, individuals providing care.

177.9(3) *Provider agreement.*

a. The client and the provider shall enter into an agreement, ~~using the provider agreement form,~~ using Form 470-0636 prior to the provision of service. Any reduction to the state supplemental assistance program shall be applied to the maximum amount paid by the department of human services as stated in the provider agreement by using the separate amendment to provider agreement form.

b. Written instructions for dealing with emergency situations shall be completed by the service worker and included in the provider agreement, which shall be maintained in the client's home and in the county department of human services office. The instructions shall include:

(1) The name and telephone number of the client's physician, the nurse, responsible family members or other significant persons, and the service worker;

HUMAN SERVICES DEPARTMENT[441](cont'd)

- (2) Information as to which hospital to utilize; and
- (3) Information as to which ambulance service or other emergency transportation to utilize.

ITEM 10. Rescind rule 441—177.10(249) and adopt the following **new** rule in lieu thereof:

441—177.10(249) Payment.

177.10(1) *Payment approved.* Notwithstanding 42 U.S.C. 1382(c)(7), after the service manager or designee approves the service plan, payment is effective as of the later of (1) the date of the application, or (2) the date all eligibility requirements are met and qualified health care services are provided.

177.10(2) *Client participation.*

a. Except as provided in paragraph 177.10(2)“*b*,” all income remaining after excluding the amounts identified in paragraphs 177.4(1)“*f*” and “*g*” will be considered income available for services (“client participation”) and the in-home health-related care (IHHRC) program shall pay only the cost of eligible services that exceeds client participation up to the maximum benefit payable.

b. When the first month of service is less than a full month, there is no client participation for that month. Payment will be made for the actual days of service provided according to the agreed-upon rate up to the maximum benefit payable.

177.10(3) *Maximum benefit payable.* The maximum benefit payable for in-home health-related care services inclusive of all services for all providers is the reasonable charges for such services up to and including \$480.55. The provider shall accept the maximum benefit payable and shall not charge the client or others in excess of that benefit.

177.10(4) *Payment.* The client or the person legally designated to handle the client’s finances shall be the sole payee for payments made under the program and shall be responsible for making payment to the provider except when the client payee becomes incapacitated or dies while receiving service.

a. The department shall have the authority to issue one payment to a provider on behalf of a client payee who becomes incapacitated or dies while receiving service.

b. When continuation of an incapacitated client payee in the program is appropriate, the department shall assist the client and the client’s family to legally designate a person to handle the client’s finances. Guardians, conservators, protective or representative payees, or persons holding power of attorney are considered to be legally designated.

c. Temporary absence from home. Payment will not be authorized for over 15 days for any continuous absence whether or not the absence extends into a succeeding month or months.

177.10(5) *Reasonable charges.* Payment will be made only for reasonable charges for in-home health care services as determined by the service worker, who will determine reasonableness by:

- a.* The prevailing community standards for cost of care for similar services.
- b.* The availability of services at no cost to the IHHRC program.

ITEM 11. Amend rule 441—177.11(249) as follows:

441—177.11(249) Termination. Termination of in-home health-related care shall occur under the following conditions:

177.11(1) *Request.* Upon the request of the client or legal representative.

177.11(2) *Care unnecessary.* When the client becomes sufficiently ~~self-sustaining~~ able to remain in the client’s own home with services that can be provided by ~~existing community agencies~~ other sources as determined by the service worker.

177.11(3) *Additional care necessary.* When the physical or mental condition of the client requires more care than can be provided in the client’s own home as determined by the service worker in consultation with the certifying physician.

177.11(4) *Excessive costs.* When the cost of care exceeds the maximum established in 177.4(3) subrule 177.10(3).

177.11(5) and 177.11(6) No change.

177.11(7) ~~Qualified health care services absent.~~ Failing to comply with program requirements. ~~Qualified health care services are health care services supervised by a registered nurse~~

HUMAN SERVICES DEPARTMENT[441](cont'd)

and approved by a physician. When a registered nurse is not available to supervise the in-home service and health care plan, or when a physician or nurse practitioner is not available to review or approve the health care plan, the state supplementary assistance payment shall be terminated. When the recipient is not following the program requirements or cooperating with the program objectives including, but not limited to, a failure to provide information to program representatives.

ARC 6543C**IOWA FINANCE AUTHORITY[265]****Notice of Intended Action****Proposing rule making related to the updated 2023 9% qualified allocation plan
and providing an opportunity for public comment**

The Iowa Finance Authority hereby proposes to amend Chapter 12, “Low-Income Housing Tax Credits,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 16.5.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 16.35.

Purpose and Summary

The updated 2023 9% Qualified Allocation Plan (9% QAP) sets forth the purposes of the plan, administrative information required for participation, threshold criteria, selection criteria, post-reservation requirements, the appeal process, and compliance monitoring. The plan also establishes the fees for filing an application for low-income housing tax credits and for compliance monitoring. Copies of the QAP are available upon request from the Authority and are available electronically on the Authority’s website at www.iowafinance.com. It is the Authority’s intent to incorporate the updated 2023 QAP by reference consistent with Iowa Code chapter 17A and 265—subrules 17.4(2) and 17.12(2).

Fiscal Impact

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

Jobs Impact

After analysis and review of this rule making, the impact on jobs is expected to be consistent with the impact of previous years’ QAPs. The Low-Income Housing Tax Credit Program has had a substantial positive impact on employment in Iowa, creating many jobs annually in the construction, finance, and property management fields, among others.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 265—Chapter 18.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Authority no later than 4:30 p.m. on October 11, 2022. Comments should be directed to:

IOWA FINANCE AUTHORITY[265](cont'd)

Kristin Hanks-Bents
Iowa Finance Authority
1963 Bell Avenue, Suite 200
Des Moines, Iowa 50315
Phone: 515.452.0404
Email: kristin.hanks-bents@iowafinance.com

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend subrule 12.1(2) as follows:

12.1(2) *Nine percent qualified allocation plan.* The qualified allocation plan titled Iowa Finance Authority Low-Income Housing Tax Credit Program ~~2020-21~~ 2023 9% Qualified Allocation Plan (“9% QAP”) shall be the qualified allocation plan for the allocation of 9 percent low-income housing tax credits ~~awarded in 2020~~, consistent with IRC Section 42 and the applicable Treasury regulations and Iowa Code section 16.35. ~~The qualified allocation plan titled Iowa Finance Authority Low-Income Housing Tax Credit Program 2020-21 First Amended 9% Qualified Allocation Plan (“first amended 9% QAP”) shall be the qualified allocation plan for the allocation of 9 percent low-income housing tax credits awarded in 2021, consistent with IRC Section 42 and the applicable Treasury regulations and Iowa Code section 16.35. The 9% QAP and the first amended 9% QAP are~~ is incorporated by reference pursuant to Iowa Code section 17A.6 and 265—subrules 17.4(2) and 17.12(2). The 9% QAP does not include any amendments or editions created subsequent to ~~November 6, 2019~~ August 31, 2022. ~~The first amended 9% QAP does not include any amendments or editions created subsequent to February 3, 2021.~~

ITEM 2. Amend subrule 12.2(2) as follows:

12.2(2) *9% QAP.* The 9% QAP ~~and the first amended 9% QAP~~ can be reviewed and copied in ~~their~~ its entirety on the authority’s website at www.iowafinance.com. Copies of the 9% QAP ~~and the first amended 9% QAP~~, the application, and all related attachments and exhibits shall be deposited with the administrative rules coordinator and at the state law library and shall be available on the authority’s website. The 9% QAP incorporates by reference IRC Section 42 and the regulations in effect as of ~~November 6, 2019~~ August 31, 2022. ~~The first amended 9% QAP incorporates by reference IRC Section 42 and the regulations in effect as of February 3, 2021.~~ Additionally, ~~both the 9% QAP and the first amended 9% QAP incorporate~~ incorporates by reference Iowa Code section 16.35. These documents are available from the state law library, and information about these statutes, regulations and rules is on the authority’s website.

ARC 6540C**IOWA PUBLIC INFORMATION BOARD[497]****Notice of Intended Action****Proposing rule making related to five-year rules review
and providing an opportunity for public comment**

The Iowa Public Information Board (IPIB) hereby proposes to amend Chapter 2, “Complaint Investigation and Resolution Procedures,” and Chapter 4, “Contested Cases,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 23.6(2).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 23.

Purpose and Summary

This proposed rule making reflects changes related to the IPIB five-year rules review and removes inapplicable rules.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition IPIB for a waiver of the discretionary provisions, if any, pursuant to 497—Chapter 9.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by IPIB no later than 4:30 p.m. on October 11, 2022. Comments should be directed to:

Margaret Johnson
Iowa Public Information Board
Wallace State Office Building
502 East 9th Street, Third Floor
Des Moines, Iowa 50319
Phone: 515.725.1783
Fax: 515.725.1789
Email: margaret.johnson@iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental

IOWA PUBLIC INFORMATION BOARD[497](cont'd)

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

- ITEM 1. Rescind subrule **2.1(6)**.
- ITEM 2. Rescind and reserve rule **497—4.17(17A)**.

ARC 6541C

LABOR SERVICES DIVISION[875]

Notice of Intended Action

**Proposing rule making related to boiler and pressure vessel codes
and providing an opportunity for public comment**

The Boiler and Pressure Vessel Board hereby proposes to amend Chapter 91, "General Requirements for All Objects," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 89.14(5).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 89.

Purpose and Summary

This proposed rule making will update and clarify the rules and also adopt by reference the most recent version of national consensus codes pertaining to boilers and pressure vessels. The proposed rule making adopts CSD-1 (2021), which was adopted by the American National Standards Institute on September 21, 2021. The updates in CSD-1 are mostly editorial or clarifications. There are several minor changes to standards for specific boilers. CSD-1 (2021) is applicable to the assembly, installation, maintenance, and operation of controls and safety devices on automatically operated boilers directly fired with gas, oil, gas-oil, or electricity.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 875—Chapter 81.

LABOR SERVICES DIVISION[875](cont'd)

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on October 11, 2022. Comments should be directed to:

Lanny Zieman
 Division of Labor Services
 150 Des Moines Street
 Des Moines, Iowa 50309
 Email: lanny.zieman@iwd.iowa.gov

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend subrule 91.1(6) as follows:

91.1(6) *Control and safety device code adopted by reference.* Controls and Safety Devices for Automatically Fired Boilers (CSD-1) (~~2018~~) (2021) is adopted by reference, and installations after ~~April 15, 2020~~ December 1, 2022, shall comply with it. Reporting requirements concerning CSD-1 are set forth at rule 875—90.11(89).

ITEM 2. Amend subrule 91.8(1) as follows:

91.8(1) *General requirements.*

- a. Leaky tubes shall be replaced or plugged.
- b. Tube plugs shall be made of a material which is compatible with the material of the boiler tube being plugged and shall be welded into place or manufactured to be expanded into the tube sheet or drum.
- ~~c. All plugged boiler tubes shall be replaced prior to the next required certificate inspection.~~
- ~~d. c.~~ The maximum number of tubes that ~~shall~~ may be plugged is ~~shall be~~ the lesser of the number specified by the OEM or ~~the number specified by~~ an engineer experienced in boiler design.
- ~~d.~~ Documentation of the maximum number of tubes that may be plugged ~~as determined by the OEM or engineer~~ shall be kept on site, and a copy shall be ~~mailed~~ supplied to the division of labor services by either mail or email.

ITEM 3. Amend subrule 91.8(2) as follows:

91.8(2) *Fire tube boilers.* ~~In a fire tube boiler, a tube that is adjacent to a plugged tube shall not be plugged.~~

- a. A tube that is adjacent to a plugged tube shall not be plugged.
- b. All plugged boiler tubes shall be replaced prior to the next required certificate inspection.

ITEM 4. Amend subrule 91.8(3) as follows:

91.8(3) *Water tube boilers, unfired boilers, or process steam generators.* ~~To determine the maximum number of tubes that may be plugged in a water tube boiler, unfired boiler, or process steam generator, an engineer experienced in boiler design shall consider the operational effect on the water side pressure~~

LABOR SERVICES DIVISION[875](cont'd)

~~boundary or membrane and the effect on the combustion process throughout the boiler. Water wall tubes may not be plugged if the tubes form a separation wall between products of combustion and the outside atmosphere or a separation of the gas passes in a multiple gas pass boiler. Water wall tubes that form a separation wall between products of combustion and the outside atmosphere or a separation of the gas passes in a multiple gas pass boiler shall not be plugged.~~

ITEM 5. Amend subrule 91.10(1) as follows:

91.10(1) Clearances.

a. This paragraph applies to objects installed after December 1, 2022. Minimum clearance on all sides of objects shall be 36 inches, or the manufacturer's recommended service clearances if they allow sufficient room for inspection. Where a manufacturer identifies in the installation manual or other document that the unit requires more than 36 inches of service clearance, those dimensions shall be followed. Manholes shall have five feet of clearance between the manhole opening and any wall, ceiling or piping that would hinder entrance or egress from the object.

~~a. b. All This paragraph applies to all objects installed after December 1, 2021, and before December 1, 2022. All objects shall be installed with the clearances identified in NBIC Part 1.~~

~~b. c. This paragraph applies to objects installed after September 20, 2006, and before December 1, 2021. Minimum clearance on all sides of objects shall be 24 inches, or the manufacturer's recommended service clearances if they allow sufficient room for inspection. Where a manufacturer identifies in the installation manual or other document that the unit requires more than 24 inches of service clearance, those dimensions shall be followed. Manholes shall have five feet of clearance between the manhole opening and any wall, ceiling or piping that would hinder entrance or egress from the object.~~

~~e. d. All objects installed prior to September 20, 2006, shall be so located that adequate space is provided for the proper operation, inspection, and necessary maintenance and repair of the object and its appurtenances.~~

ITEM 6. Amend subrule 91.10(4) as follows:

91.10(4) Carbon monoxide detector or alarm. The owner or user shall install and maintain a carbon monoxide detector or alarm in an equipment room where one or more fuel-fired objects are located in accordance with the detector or alarm manufacturer's recommendations.

~~a. The carbon monoxide detector or alarm shall have a visible display showing the parts per million value of the carbon monoxide that is detected.~~

~~b. The carbon monoxide detector or alarm shall be hardwired to the building power and shall have a battery backup with visible and audible alarms that identify when the battery backup power supply is low.~~

~~c. The carbon monoxide detector or alarm shall be tested daily and shall be calibrated in accordance with the manufacturer's recommendations, or every 18 months after installation of the detector. The testing and calibration shall be recorded in a log book that is readily accessible to the inspectors and owner's staff.~~

~~d. The carbon monoxide detector or alarm shall have visible and audible alarms capable of being heard and seen both inside and outside of the equipment room.~~

ARC 6545C

LAW ENFORCEMENT ACADEMY[501]

Notice of Intended Action

**Proposing rule making related to certification and training
and providing an opportunity for public comment**

The Iowa Law Enforcement Academy hereby proposes to amend Chapter 2, "Minimum Standards for Iowa Law Enforcement Officers," Chapter 3, "Certification of Law Enforcement Officers," Chapter 4, "Instructor Certification Criteria for the Training of Peace Officers, Reserve Officers, Jailers and Public

LAW ENFORCEMENT ACADEMY[501](cont'd)

Safety Telecommunicators,” Chapter 9, “Jailer Training,” and Chapter 10, “Reserve Peace Officers,” Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, 2022 Iowa Acts, House File 803.

Purpose and Summary

The Academy frequently reviews and updates its rules to reflect changes to curricula and procedures. The proposed amendments to Chapters 3, 4 and 9 reflect changes made to the basic academy and jail academy curricula. The proposed amendments to Chapters 2 and 10 related to physician assistants are mandated by 2022 Iowa Acts, House File 803.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Academy no later than 4:30 p.m. on October 11, 2022. Comments should be directed to:

Russell Rigdon
Iowa Law Enforcement Academy
Building 4640
P.O. Box 130
Johnston, Iowa 50131
Email: russell.rigdon@iowa.gov

Public Hearing

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s

LAW ENFORCEMENT ACADEMY[501](cont'd)

meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend subrule 2.1(11) as follows:

2.1(11) Is examined by a licensed physician, physician assistant or surgeon and meets the physical requirements necessary to fulfill the responsibilities of a law enforcement officer.

ITEM 2. Amend rule 501—3.2(80B) as follows:

501—3.2(80B) Law enforcement status forms furnished to academy. Within ~~20~~ ten days of any of the following occurrences, the academy will be so advised by use of prescribed forms:

- 1. Any hiring of personnel.
- 2. Change of status of existing personnel (e.g., promotions).
- 3. Any termination of employment of a law enforcement officer or termination of appointment as a reserve peace officer. The notification must state whether the law enforcement officer or reserve peace officer was discharged or removed for serious misconduct or whether the officer left, voluntarily quit, or was laid off when disciplinary investigation or action was imminent or pending which could have resulted in the officer being discharged or removed for serious misconduct. Upon request by the council, the employing agency shall provide any additional information or documentation about the officer including confidential records or information under Iowa Code section 22.7 or other applicable law to the council.

ITEM 3. Amend subrule 3.4(1) as follows:

3.4(1) Have satisfactorily completed a two-year or four-year police science or criminal justice program ~~of which that includes~~ at least 20 credit hours ~~were~~ dedicated to police science or criminal justice coursework at an accredited educational institution and documentation furnished to the academy.

ITEM 4. Amend subrule 3.5(1) as follows:

- 3.5(1) Program administration** 24 hours
- ~~a. Duty assignments.~~
 - ~~b. a.~~ Examinations.
 - ~~c. b.~~ Family day.
 - ~~d. c.~~ Graduation.
 - ~~e. d.~~ Registration/orientation.
 - ~~f. e.~~ Student advisor meeting.

ITEM 5. Amend subrule 4.1(1) as follows:

4.1(1) Instructor designation. All instructors of a council-approved training program, excluding agency in-service training, will be designated as either general or a subject matter expert (SME). General instructors will be peace officers, jailers, jail administrators or public safety telecommunicators instructing in subjects relevant to their profession. Subject matter expert instructors will be those instructing subjects in the areas requiring a specialized academic degree, certification, licensure or experience. ~~Final~~ The final decision as to whether an instructor is in the general or SME area rests with the academy council or the academy director.

ITEM 6. Amend subrule 4.2(1) as follows:

4.2(1) Experience and training. The following are minimum experience and training requirements that an instructor (general) must meet in order to become certified:

- a. A minimum of ~~three years' certified~~ 18 months of experience (peace officer, jailer or public safety telecommunicator) in Iowa after being certified by the state of Iowa, with a majority portion of this experience in the subject area to be instructed. An instructor with less than three years of certified experience must be mentored and supervised by an instructor approved by the Iowa law enforcement academy in the subject matter being taught; and

LAW ENFORCEMENT ACADEMY[501](cont'd)

b. Successful completion of an instructor training course consisting of a minimum of 16 hours of instruction or have provided a minimum of 60 hours of instruction within the past three years and be able to verify the same upon request.

ITEM 7. Amend paragraph 9.1(1)“b” as follows:

b. Approved 40-hour training program curriculums shall include the following topics:

- (1) No change.
- (2) Prison rape elimination act (PREA) (Title 42 U.S.C. 147) (recommended prerequisite).
- (3) Bloodborne pathogens (OSHA standard as set out in CFR Part 1910.1030(g)(2)) (recommended prerequisite).
- (4) to (7) No change.
- (8) ~~Medical screening at intake~~ Intake procedures (201—subrule 50.15(6)).
- (9) and (10) No change.
- (11) DNA submissions (recommended prerequisite).
- (12) No change.
- (13) Medication management (201—subrule 50.15(2)) (recommended prerequisite).
- (14) to (16) No change.

ITEM 8. Amend subrule 9.1(2) as follows:

9.1(2) Annual jailer in-service curriculum. During each fiscal year of employment following completion of the required basic training as set forth in subrule 9.1(1), jailers and the administrator of a jail shall complete 20 hours of in-service training, not to include proficiency in chemical agents or firearms qualification. All instructors shall be certified by academy personnel utilizing certification standards adopted by the academy.

a. The following is a list of annually (every year) required topics (10 hours minimum):

- | | |
|--|----------------------------|
| 12 hours | |
| (1) Suicide prevention/mental illness (201—paragraph 50.15(6)“c”). | 3 hours |
| minimum | |
| (2) Prison rape elimination act (PREA) (Title 42 U.S.C. 147). | 1 hour minimum |
| (3) Emergency evacuation plan (201—subrule 50.9(3)). | |
| (4) Bloodborne pathogens (OSHA standard as set out in CFR Part 1910.1030(g)(2)). | 1 hour minimum |
| (5) Legal: training topics in paragraphs “1” through “5” must include references to the Iowa Code, jail standards and relevant case law. | 2 hours |
| 1. Grievance and disciplinary procedures (201—subrule 50.21(4)). | |
| 2. Constitutional rights of inmates (201—Chapter 50). | |
| 3. Introduction to Iowa criminal law as applicable to a jail setting (201—Chapter 50). | |
| 4. Affirmative duty to intervene/intercede. | |
| 5. Use of force (Iowa Code sections 704.1, 704.2, 704.2A, 704.2B, 704.8). | |
| (6) Cultural diversity including implicit bias (Iowa Code section 80B.11G). | 2 hours minimum |
| (7) Communication skills including de-escalation (Iowa Code section 80B.11G). | 1 hour minimum |
| (8) Methods of restraining violent inmates. | 1 hour minimum |
| (9) Medical screening at intake <u>Intake procedures</u> (201—subrule 50.15(6)). | |
| 1 hour minimum | |
| b. Required biannually (every two years): | |
| CPR/AED/airway obstruction – adult. | 4 hours |
| c. Eight <u>Ten</u> hours of additional training selected by the jail administrator or sheriff. | |

ITEM 9. Amend subrule 9.2(2) as follows:

9.2(2) Annual holding facility in-service curriculum.

a. Administrators and supervisors of holding facilities shall complete five hours of in-service training, not to include hours spent in maintaining required certification or proficiency in first aid, CPR/AED/airway obstruction – adult, chemical agents, or handling of firearms.

LAW ENFORCEMENT ACADEMY[501](cont'd)

- b.* Required annually (every year):
- (1) Suicide prevention (201—paragraph 50.15(6)“*c*”); 1—hour
minimum
- (2) Emergency evacuation plan (201—subrule 50.9(3));
- (3) Bloodborne pathogens (OSHA standard as set out in CFR Part 1910.1030(g)(2)); 1—hour
minimum
- (4) Prison rape elimination act (PREA) (Title 42 U.S.C. 147).

ITEM 10. Amend subrule 10.1(5) as follows:

10.1(5) Is of good moral character as determined by a thorough background investigation, including a fingerprint search conducted on local, state and national fingerprint files, and has not been convicted or adjudicated of any offense listed in ~~501—paragraph 2.1(5)“*a.*”~~ 501—subrule 2.1(5).

ITEM 11. Amend subrule 10.1(10) as follows:

10.1(10) Is examined by a licensed physician, physician assistant or surgeon and meets the physical requirements as defined by the law enforcement agency necessary to fulfill the responsibilities of the reserve peace officer position being filled.

ARC 6532C

PHARMACY BOARD[657]

Notice of Intended Action

Proposing rule making related to controlled substances and providing an opportunity for public comment

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

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 124.201.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 124.201.

Purpose and Summary

This proposed rule making temporarily places one substance (a hallucinogen) into Schedule I of the Iowa Controlled Substances Act in response to similar action taken by the federal Drug Enforcement Administration.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

PHARMACY BOARD[657](cont'd)

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on October 11, 2022. Comments should be directed to:

Sue Mears
Board of Pharmacy
400 S.W. 8th Street, Suite E
Des Moines, Iowa 50309
Email: sue.mears@iowa.gov

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Rescind subrule 10.39(6) and adopt the following **new** subrule in lieu thereof:

10.39(6) Amend Iowa Code section 124.204(4) by adding the following new paragraph:

cl. 2-(ethylamino)-2-(3-methoxyphenyl)cyclohexan-1-one. Other names: methoxetamine, MXE.

ARC 6533C

PHARMACY BOARD[657]**Notice of Intended Action****Proposing rule making related to the Iowa prescription monitoring program
and providing an opportunity for public comment**

The Board of Pharmacy hereby proposes to amend Chapter 37, “Iowa Prescription Monitoring Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 124.551 and 2022 Iowa Acts, House File 2201, section 13.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 124.551 and 2022 Iowa Acts, House File 2201.

PHARMACY BOARD[657](cont'd)

Purpose and Summary

The proposed rule making establishes council membership information for the Prescription Monitoring Program (PMP) Advisory Council. The proposed rule making also clarifies that only overdose-reversal opioid antagonists are required to be reported to the PMP.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on October 11, 2022. Comments should be directed to:

Sue Mears
Board of Pharmacy
400 S.W. 8th Street, Suite E
Des Moines, Iowa 50309
Email: sue.mears@iowa.gov

Public Hearing

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

October 12, 2022
10 a.m.

Health Professions Board Room
400 S.W. 8th Street, Suite H
Des Moines, Iowa

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

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rule **657—37.2(124)**, definition of “Opioid antagonist,” as follows:
“*Opioid antagonist*” means a drug that binds to opioid receptors and blocks or inhibits the effects of opioids acting on those receptors with the intention to reverse overdose, including but not limited to

PHARMACY BOARD[657](cont'd)

naloxone hydrochloride or any other similarly acting drug approved by the United States Food and Drug Administration.

ITEM 2. Adopt the following new rule 657—37.4(124):

657—37.4(124) Prescription monitoring program advisory council.

37.4(1) Membership. The membership of the PMP advisory council may include, but need not be limited to:

- a. One pharmacist licensed under Iowa Code chapter 155A;
- b. One physician licensed under Iowa Code chapter 148;
- c. One advanced registered nurse practitioner licensed under Iowa Code chapter 152;
- d. One physician assistant licensed under Iowa Code chapter 148C;
- e. One dentist licensed under Iowa Code chapter 153;
- f. One veterinarian licensed under Iowa Code chapter 169;
- g. One individual who is registered with the PMP as a practitioner's delegate;
- h. One individual who is eligible to utilize the PMP in an investigative capacity, such as a law enforcement official, licensing authority representative, or medical examiner; and
- i. One member of the public who is not eligible to register with the PMP.

37.4(2) Term of appointment. Council members shall be appointed by the board for a three-year term and may be reappointed by the board for two additional terms, for a maximum of three terms. Each term shall expire on June 30 of the third year of the term.

37.4(3) Quorum. Three members of the council constitutes a quorum.

37.4(4) Termination of appointment. A council member who is no longer eligible or able to serve on the council shall submit a written resignation to the board. A council member who does not attend three consecutive regular meetings of the council shall be deemed to have submitted a resignation.

ARC 6542C

RACING AND GAMING COMMISSION[491]

Notice of Intended Action

**Proposing rule making related to gambling games
and providing an opportunity for public comment**

The Racing and Gaming Commission hereby proposes to amend Chapter 1, "Organization and Operation," Chapter 5, "Track, Gambling Structure, and Excursion Gambling Boat Licensees' Responsibilities," Chapter 6, "Occupational and Vendor Licensing," and Chapter 8, "Pari-Mutuel Wagering, Simulcasting and Advance Deposit Wagering," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 99D.7, 99E.3 and 99F.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 99D, 99E and 99F; 2020 Iowa Acts, House File 2389; and 2022 Iowa Acts, House Files 803 and 2497.

Purpose and Summary

- Item 1 implements changes required by 2022 Iowa Acts, House File 2497.
- Item 2 implements changes required by 2020 Iowa Acts, House File 2389.
- Item 3 implements changes required by 2022 Iowa Acts, House File 2497.
- Item 4 implements changes required by 2022 Iowa Acts, House File 2497.
- Item 5 implements changes required by 2022 Iowa Acts, House File 803.

RACING AND GAMING COMMISSION[491](cont'd)

- Item 6 implements changes required by 2022 Iowa Acts, House File 2497.
- Item 7 implements changes required by 2022 Iowa Acts, House File 803.
- Item 8 implements changes required by 2022 Iowa Acts, House File 803.
- Item 9 implements changes required by 2022 Iowa Acts, House File 2497.
- Item 10 implements changes required by 2022 Iowa Acts, House File 2497.
- Item 11 implements changes required by 2022 Iowa Acts, House File 2497.
- Item 12 implements changes required by 2022 Iowa Acts, House File 2497.
- Item 13 implements changes required by 2022 Iowa Acts, House File 2497.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Commission no later than 4:30 p.m. on October 11, 2022. Comments should be directed to:

Barb Blake
Iowa Racing and Gaming Commission
1300 Des Moines Street
Des Moines, Iowa 50309
Email: barb.blake@iowa.gov

Public Hearing

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

October 11, 2022
9 a.m.

Commission Office, Suite 100
1300 Des Moines Street
Des Moines, Iowa

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

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

RACING AND GAMING COMMISSION[491](cont'd)

ITEM 1. Adopt the following **new** subrule 1.5(14):

1.5(14) *Alternative simulcast license application.* This form shall contain, at a minimum, the full name of the applicant, all ownership interests, balance sheets and profit-and-loss statements for three fiscal years immediately preceding the application, pending legal action, agreement with licensed facility or description of proposed operation, and a notarized certification of truthfulness. The form may include other information the commission deems necessary to make a decision on the license application.

ITEM 2. Rescind and reserve subrule **1.8(21)**.

ITEM 3. Amend subrule 5.4(16) as follows:

5.4(16) *Officers, agents, and employees.* Licensees are accountable for the conduct of their officers, agents, and employees. The commission or commission representative reserves the right to impose penalties against the license holder or its officer, agent, employee, or both as the commission or commission representative determines appropriate. In addition, the licensee shall be responsible for the conduct of nonlicensed employees and other persons working on behalf of the licensee in public and nonpublic areas of the excursion gambling boat, gambling structure, or racetrack enclosure.

ITEM 4. Amend subrule 6.2(1) as follows:

6.2(1) ~~All licensees for internet fantasy sports contests and all persons participating in any capacity at a racing or gaming facility; Licensee staff engaged in administration, control, conduct of gambling games, racing and sports wagering and fantasy sports contest board members, with the exception of certified law enforcement officers while they are working for the facility as uniformed officers, are required to be properly licensed by the commission.~~

a. to j. No change.

k. Any licensee who allows another person use of the licensee's license badge for the purpose of transferring any of the benefits conferred by the license may be fined, have the license suspended or revoked, or be subject to any combination of the above-mentioned sanctions. No license shall be transferable and ~~no duplicate licenses shall be issued except upon submission of an application form and payment of the license fee.~~

l. No change.

m. Non-U.S. citizens must supply documentation authorizing them to work in the United States ~~or supply documentation demonstrating compliance with the North American Free Trade Agreement.~~

n. to p. No change.

ITEM 5. Amend paragraph **6.5(1)“f”** as follows:

f. A license shall be denied if the applicant has an addiction to alcohol or a controlled substance without sufficient evidence of rehabilitation, has a history of mental illness without demonstrating successful treatment by a licensed medical physician or physician assistant, or has a history of repeated acts of violence without sufficient evidence of rehabilitation.

ITEM 6. Amend subrule 6.14(3) as follows:

6.14(3) ~~Any employee who works for a licensed vendor and will be supplying the goods or services to the facility must have a vendor employee license. Only employees who work for a racing, sports wagering, or simulcast vendor require an occupational license.~~ A vendor license must be issued before a vendor employee can be issued a license to represent that company. The authorized signature on the vendor employee's application must be the signature of the person authorized by the vendor application to sign vendor employee applications.

ITEM 7. Amend paragraph **6.24(1)“b”** as follows:

b. A jockey shall pass a physical examination given within the previous 12 months by a licensed physician or physician assistant affirming fitness to participate as a jockey. The commission representatives may require that any jockey be reexamined and may refuse to allow any jockey to ride pending completion of such examination.

RACING AND GAMING COMMISSION[491](cont'd)

ITEM 8. Amend subrule 6.28(2) as follows:

6.28(2) Drug prohibition/body fluid test. Licensees whose duties require them to be in a restricted area, as defined in subrule 6.28(1), of a racing facility shall not have present within their systems any controlled substance as listed in Schedules I to V of U.S.C. Title 21 (Food and Drug Section 812), Iowa Code chapter 124 or any prescription drug unless it was obtained directly or pursuant to valid prescription or order from a duly licensed physician or physician assistant who is acting in the course of professional practice. Acting with reasonable cause, a commission representative may direct the above licensees to deliver a specimen of urine or subject themselves to the taking of a blood sample or other body fluids at a collection site approved by the commission. In these cases, the commission representative may prohibit the licensee from participating in racing until the licensee evidences a negative test result. Sufficient sample should be collected to ensure a quantity for a split sample when possible. A licensee who refuses to provide the samples herein described shall be in violation of these rules and shall be immediately suspended and subject to disciplinary action by the board or commission representative. All confirmed positive test costs and any related expenses shall be paid for by the licensee. Negative tests shall be at the expense of the commission.

With reasonable cause noted, an on-duty commission representative may direct a licensee to deliver a test. The commission representative shall call the approved laboratory or hospital and provide information regarding the person who will be coming; that the licensee will have a photo ID; the name and number to call when the licensee arrives; to whom and where to mail the results; and who should be called with the results. The licensee will be directed to immediately leave the work area and proceed to an approved laboratory or hospital for testing with the following directions:

1. If under impairment, the licensee must have another person drive the licensee to the laboratory or hospital.
2. On arrival at the laboratory or hospital, the licensee must show the license to the admitting personnel for verification.
3. On arrival at the laboratory or hospital, the licensee shall be required to sign a consent for the release of information of the results to a commission representative.

ITEM 9. Adopt the following new definition of “Alternative simulcast operator” in rule **491—8.1(99D)**:

“*Alternative simulcast operator*” or “*ASO*” means an entity licensed by the commission to provide a system of pari-mutuel wagering at off-track betting venues at facilities licensed by the commission to conduct gambling games in Iowa.

ITEM 10. Amend paragraph **8.6(1)“a”** as follows:

a. A licensee may request authorization from the commission to conduct advance deposit wagering pursuant to Iowa Code section 99D.11(6) “c” and ~~these rules~~ this chapter. As part of the request, the licensee shall submit a detailed plan of how its advance deposit wagering system would operate. The commission may require changes in a proposed plan of operations as a condition of granting a request. No subsequent changes in the system’s operation may occur unless ordered by the commission or until approval is obtained from the commission after it receives a written request.

ITEM 11. Amend paragraph **8.6(2)“a”** as follows:

a. A person must have an established account in order to place advance deposit wagers. An account may be established in person at the licensee’s facility or with the ADWO by mail or electronic means. For establishing an account, the application must be signed or otherwise authorized in a manner acceptable to the commission and shall include the applicant’s full legal name, principal residence address, telephone number, and date of birth and any other information required by the commission. The licensee and ADWO shall have a process to verify that the player is not on the statewide self-exclusion list set forth in Iowa Code section ~~99F.4(22)~~ 99D.7(23) prior to establishing an account. The licensee and ADWO shall review and deactivate accounts of newly enrolled participants of the statewide self-exclusion program and comply with all other requirements set forth by the commission and in Iowa Code section ~~99F.4(22)~~ 99D.7(23).

RACING AND GAMING COMMISSION[491](cont'd)

ITEM 12. Amend subrule 8.6(3) as follows:

8.6(3) Operation of an account. The ADWO shall submit operating procedures with respect to licensee account holder accounts for commission approval. The submission shall include controls and reasonable methods that provide for the following:

~~a. A written report to the commission for any incident where there is a violation of Iowa Code chapter 99D or 99F, a commission rule or order, or an internal control within 72 hours of detection. In addition to the written report, the ADWO shall provide immediate notification to the commission if an incident involves employee theft, criminal activity, or a violation of Iowa Code chapter 99D or 99F. Written notification to the commission consistent with 491—paragraph 5.4(5) “c.”~~

~~b. and c. No change.~~

~~d. Treatment of problem gambling by: Problem gambling controls consistent with 491—subrule 5.4(12).~~

~~(1) Identifying problem gamblers.~~

~~(2) Complying with the process established by the commission pursuant to Iowa Code section 99F.4(22) and 491—subrule 5.4(12).~~

~~(3) Cooperating with the Iowa gambling treatment program in creating and establishing controls.~~

~~(4) Including information on the availability of the gambling treatment program in a substantial number of the licensee’s advertisements and printed materials.~~

~~e. No change.~~

ITEM 13. Adopt the following new rule 491—8.7(99D):

491—8.7(99D) Alternative simulcast operator.

8.7(1) Authorization to conduct alternative simulcast.

a. An entity may request authorization from the commission to conduct alternative simulcast wagering pursuant to Iowa Code section 99D.9D and this chapter. As part of the request, the entity shall submit a detailed plan of how its wagering system would operate. The commission may require changes in a proposed plan of operations as a condition of granting a request. No subsequent changes in the system’s operation may occur unless ordered by the commission or until approval is obtained from the commission after it receives a written request.

b. The commission may conduct investigations or inspections or request additional information from the entity as the commission deems appropriate in determining whether to allow an entity to conduct an alternative simulcast operation.

c. The entity shall establish and manage an alternative simulcast wagering center.

d. The commission may issue an ASO license that complies with the requirements of Iowa Code section 99D.9D and the additional criteria as established by the commission. The terms of any ASO license shall include but not be limited to:

(1) Fees to be paid on any races subject to pari-mutuel wagering.

(2) An annual license fee in an amount to be determined by the commission.

(3) Completion of all necessary background investigations as determined by the commission.

(4) Acceptance of wagers on live races conducted at the horse racetrack in Polk County.

(5) A bond or irrevocable letter of credit on behalf of the alternative simulcast operator to be determined by the commission.

(6) Certification of secure retention of all records related to alternative simulcast and off-track wagering for a period of not less than three years or such longer period as specified by the commission.

(7) Utilization and communication of pari-mutuel wagers to a pari-mutuel system meeting all requirements for pari-mutuel systems employed by licensed racing facilities in Iowa.

e. Commission access to and use of information concerning alternative simulcast and off-track wager transactions shall be considered proprietary, and such information shall not be disclosed publicly except as may be required pursuant to statute or court order or except as part of the official record of any

RACING AND GAMING COMMISSION[491](cont'd)

proceeding before the commission. This requirement shall not prevent the sharing of this information with other pari-mutuel regulatory authorities or law enforcement agencies for investigative purposes.

8.7(2) Operation of an ASO. The ASO shall submit operating procedures and controls that provide for the following:

- a. Written notification to the commission consistent with 491—paragraph 5.4(5) “c.”
- b. The segregation of incompatible functions so that no employee is in a position to perpetrate and conceal errors or irregularities in the normal course of the employee’s duties.
- c. User access controls for all sensitive and secure, physical and virtual, areas and systems within a wagering operation.
- d. Problem gambling controls consistent with 491—subrule 5.4(12).
- e. Setoff winnings of customers who have a valid lien established under Iowa Code chapter 99F.

ARC 6539C

REVENUE DEPARTMENT[701]

Notice of Intended Action

Proposing rule making related to electronic filing of tax returns and providing an opportunity for public comment

The Revenue Department hereby proposes to amend Chapter 8, “Forms and Communications,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 422.14, 422.15, 422.16B, 422.36, 422.37, and 422.62 as amended by 2022 Iowa Acts, House File 2552, and section 422.68.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 422.14, 422.15, 422.16B, 422.36, 422.37 and 422.62 as amended by 2022 Iowa Acts, House File 2552.

Purpose and Summary

This proposed rule making is intended to implement the requirement imposed by 2022 Iowa Acts, House File 2552, division II, to electronically file certain business income, fiduciary, and franchise tax returns. This rule making describes the proper method for filing electronic returns, provides definitions that are useful for determining whether a taxpayer has met the criteria for being subject to the mandate, and provides for exceptions to the electronic filing requirement. The reference to rule 701—10.9(421) in subrule 8.7(4) is a reference to a new rule proposed in **ARC 6453C**, IAB 8/10/22.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

REVENUE DEPARTMENT[701](cont'd)

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on October 11, 2022. Comments should be directed to:

Benjamin Clough
Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306
Phone: 515.587.0662
Email: ben.clough@iowa.gov

Public Hearing

If requested, a public hearing at which persons may present their views orally or in writing will be held as follows:

October 12, 2022
1 to 2 p.m.

Via video/conference call

Persons who wish to participate in the video/conference call should contact Benjamin Clough before 4:30 p.m. on October 11, 2022, to facilitate an orderly hearing. A video link or conference call number will be provided to participants prior to the hearing.

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

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Adopt the following **new** rule 701—8.7(422,533):

701—8.7(422,533) Mandatory electronic filing for certain taxpayers. Iowa corporate and fiduciary income and franchise taxpayers, and pass-through entities subject to Iowa income reporting requirements, are required to file their annual returns in an electronic format approved by the department for any tax year in which certain criteria are met. This rule provides information needed to determine whether any entity is subject to this electronic filing requirement for a given tax year.

8.7(1) Definitions.

“*Business entity*,” when used in this rule, means entities taxed as corporations, partnerships, S corporations, and financial institutions as defined in Iowa Code section 422.61(1).

“*Fiduciary taxpayer*” means the same as “fiduciary” as defined in Iowa Code section 422.4(4).

“*Iowa tax credits*” means refundable and nonrefundable tax credits authorized under the Iowa Code for the tax year in which they are claimed or applied, but does not include credits for prior payments or composite credits.

REVENUE DEPARTMENT[701](cont'd)

“*Return*,” when used in this rule, means Form IA 1120, IA 1120S, IA 1120F, IA 1065, IA PTE-C, or IA 1041, as context requires, and includes amended returns, supporting schedules, attachments, or lists which are supplemental to or part of the filed return.

“*Taxpayer*,” unless the context otherwise requires, means any business entity, financial institution, or fiduciary taxpayer as defined in this rule.

“*Tax year*” means any period of up to 12 months, including periods of less than 12 months, for which a taxpayer subject to this rule is required to file an Iowa income tax, franchise tax, or information return.

“*Total gross receipts*” means gross receipts or sales from all business operations conducted within and without Iowa without any adjustment for returns and allowances, and also includes receipts from all interest, dividends, rents, and royalties; income from ordinary and capital gains; and the distributive share of income received by the taxpayer from a partnership, S corporation, estate, or trust.

8.7(2) *Electronic format for filing.* A taxpayer that meets any of the criteria for mandatory electronic filing in subrule 8.7(3) shall file a paperless Iowa income or franchise tax return by way of the Internal Revenue Service (IRS) Modernized e-File (MeF) program, also known as federal/state electronic filing, in a manner consistent with the requirements of rule 701—8.5(422).

8.7(3) *Criteria for mandatory electronic filing.* This subrule applies to business entities for tax years ending on or after December 31, 2022, and to fiduciary taxpayers for tax years ending on or after December 31, 2023. Every taxpayer required to file an Iowa income or franchise tax return for an applicable year must file using the electronic format specified in subrule 8.7(2) if the taxpayer meets any of the following criteria for the tax year:

- a. *Gross receipts.* The taxpayer has \$250,000 or more in total gross receipts for the tax year.
- b. *Iowa tax credits.* The taxpayer claims or applies \$25,000 or more of Iowa tax credits on the return for the tax year.
- c. *Iowa Schedules K-1.* The taxpayer is required to issue ten or more Iowa Schedules K-1 to its partners, members, shareholders, or beneficiaries for the tax year.
- d. *Consolidated corporate return.* The taxpayer elects or is required to file or be included on an Iowa consolidated corporate income tax return under Iowa Code section 422.37 for the tax year.

8.7(4) *Returns not in compliance with this rule.* Any return filed in any manner other than the manner specified in subrule 8.7(2) by a taxpayer that meets any of the criteria for mandatory electronic filing as described in subrule 8.7(3) is not a valid return. The taxpayer is a nonfiler for the tax year for which the return was required, and may be subject to the failure to file penalties as provided for in rules 701—10.6(421) and 701—10.9(421), until such time as the taxpayer files the return in the proper electronic format. This subrule shall not apply if an exception has been granted under subrule 8.7(5).

8.7(5) *Exceptions.* At the department’s discretion, exceptions to the electronic filing requirement under this rule may be granted for good cause. The taxpayer bears the burden to prove that good cause exists for the failure to file electronically. A claim that the return preparation software purchased or licensed by a taxpayer or taxpayer’s return preparer does not include all of the features necessary to comply with the taxpayer’s Iowa filing obligations shall not be considered good cause for purposes of granting an exception to the electronic filing requirement.

- a. *Requests for exceptions to the electronic filing requirement.*
 - (1) Form of request. Requests for exceptions to the electronic filing requirement must be submitted by mail or online through GovConnectIowa on forms provided by the department.
 - (2) Timing of request. Requests for exceptions to the electronic filing requirement must be submitted before the return is filed.
 - (3) Department determination. The department will notify the taxpayer in writing whether a request for an exception to the electronic filing requirement has been approved or denied. If the department does not respond to a taxpayer’s valid request for an exception to the electronic filing requirement within 90 days of the date the request is received, the request shall be deemed accepted.
 - (4) Applicability of exception. An exception to the electronic filing requirement, if granted, shall only be valid for the tax year for which it was approved.

b. *Temporary one-time relief.* For tax years ending on or before December 31, 2023, if the department determines a taxpayer that filed a paper return was required to file in an electronic manner

REVENUE DEPARTMENT[701](cont'd)

as provided in this rule, the department will notify the taxpayer in writing of the requirements of this rule. If the taxpayer properly files in an electronic manner within 30 days of the date of the notification under this paragraph, the department shall grant an exception to the requirements of this rule and deem the originally filed paper return a valid return. A taxpayer shall only be granted the benefit of this paragraph for one eligible return.

This rule is intended to implement 2022 Iowa Acts, House File 2552, division II.

ARC 6538C**REVENUE DEPARTMENT[701]****Notice of Intended Action****Proposing rule making related to withholding
and providing an opportunity for public comment**

The Revenue Department hereby proposes to amend Chapter 38, “Administration,” and Chapter 46, “Withholding,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 421.14.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 421.27, 422.16 and 422.25 and 2022 Iowa Acts, House File 2552.

Purpose and Summary

This proposed rule making is intended to implement statutory changes to the penalty imposed on payers of withholding who fail to file income statements with the Department. Payers of withholding will now be penalized \$500 for each instance of willful failure to file an income statement with the Department. This rule making also implements a statutory change that eliminates the requirement that payers of withholding submit an annual summary of withholding payments. Further, this rule making eliminates references to responsible parties and amends other provisions related to withholding registration to better conform with how withholding registration is administered by the Department. Finally, this rule making amends language regarding filing of returns to better conform with how withholding filings are administered by the Department and to make the rules easier to read.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa beyond that of the legislation it is intended to implement. The final Fiscal Note for 2022 Iowa Acts, House File 2552, did not indicate any fiscal impact.

Jobs Impact

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

Waivers

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

REVENUE DEPARTMENT[701](cont'd)

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on October 11, 2022. Comments should be directed to:

Kurt Konek
Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306
Phone: 515.587.0440
Email: kurt.konek@iowa.gov

Public Hearing

If requested, a public hearing at which persons may present their views orally or in writing will be held as follows:

October 11, 2022
12:30 to 1:30 p.m.

Via video/conference call

Persons who wish to participate in the video/conference call should contact Kurt Konek before 8 a.m. on October 11, 2022, to facilitate an orderly hearing. A video link or conference call number will be provided to participants prior to the hearing.

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

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Rescind subrule **38.1(8)**.

ITEM 2. Amend paragraph **46.1(1)“c”** as follows:

c. Exemption from withholding. An employer may be relieved of the responsibility to withhold Iowa income tax on an employee who does not anticipate an Iowa income tax liability for the current tax year.

An employee who anticipates no Iowa income tax liability for the current tax year shall file with the employer a withholding allowance certificate claiming exemption from withholding. An employee who meets this criterion may claim an exemption from withholding at any time; however, this exemption from withholding must be renewed by February 15 of each tax year that the criterion is met. If the employee wishes to discontinue or is required to revoke the exemption from withholding, the employee must file a new withholding allowance certificate within ten days from the date the employee anticipates a tax liability or on or before December 31 if a tax liability is anticipated for the next tax year. ~~See subrule 46.3(2)~~ Subrule 46.3(3) contains more information.

REVENUE DEPARTMENT[701](cont'd)

ITEM 3. Amend rule 701—46.3(422) as follows:

701—46.3(422) Forms, returns, and reports.

46.3(1) Definitions. For the purposes of this rule, the following definitions apply.

“GovConnectIowa” means the e-services portal of the department of revenue.

“Income statement” means a statement that conforms to the requirements of Iowa Code section 422.16(7)“a.” An income statement includes, but is not limited to, Internal Revenue Service (IRS) Form W-2, IRS Form 1099, and IRS Form W-2G.

“Payee” means an employee or other person who had Iowa income tax withheld pursuant to Iowa Code section 422.16.

“Payer” means an employer or other person required to withhold and remit Iowa income tax pursuant to Iowa Code section 422.16.

46.3(1) 46.3(2) Employer Withholding registration.

a. Every employer or payer required to deduct and withhold Iowa income tax must register with the department of revenue by filing an “Iowa Business Tax Registration Form.” Iowa Business Tax Registration Form either on a paper form available online at tax.iowa.gov or through GovConnectIowa. The form shall indicate the employer’s or payer’s federal employer identification number. If an employer or a payer has not received a federal employer’s employer identification number, the department will issue a temporary identification number. The employer or payer must notify the department when of the payer’s federal employer identification number is once the number has been assigned. If a payer fails to provide the payer’s federal employer identification number, the department may cancel the payer’s withholding registration.

When initial payment of wages subject to Iowa withholding tax occurs late in the calendar quarter, or before the employer’s or payer’s federal employer’s identification number is assigned by the Internal Revenue Service, the Iowa business tax registration form shall be forwarded along with the first quarterly withholding return. The responsible party(ies) shall be listed on the form.

b. If an employer a payer deducts and withholds Iowa income tax but does not file the Iowa business tax registration form Business Tax Registration Form, the department may register the employer payer using the best information available. If an employer a payer uses a service provider to report and remit Iowa withholding tax on behalf of the employer payer, the department may use information obtained from the service provider to register the employer payer if an Iowa business tax registration form Business Tax Registration Form is not filed. This information would include, but is not limited to, the name, address, federal employer’s employer identification number, filing frequency, and withholding agent and responsible party(ies) contact of the employer payer.

46.3(2) 46.3(3) Allowance certificate.

a. General rules. On or before the date on which an individual commences employment with an employer, the individual shall furnish the employer with a signed Iowa employee’s withholding allowance certificate (IA W-4) indicating the number of withholding allowances which the individual claims, which in no event shall exceed the number to which the individual is entitled. The employer is required to request a withholding allowance certificate from each employee. If the employee fails to furnish a certificate, the employee shall be considered as claiming no withholding allowances. See ~~subrule 46.3(4) for~~ Subrule 46.3(5) contains information on Form IA W-4P₂, which is to be used by payers of pensions, annuities, deferred compensation, individual retirement accounts and other retirement incomes.

The employer must submit to the department of revenue a copy of a withholding allowance certificate received from an employee if:

(1) and (2) No change.

b. to e. No change.

46.3(3) 46.3(4) Reports and payments of income tax withheld.

a. Returns of income tax withheld from wages.

(1) Quarterly returns. Every ~~withholding agent~~ payer required to withhold tax on compensation paid for personal services in Iowa shall make a return for the first calendar quarter in which tax is

REVENUE DEPARTMENT[701](cont'd)

withheld and for each subsequent calendar quarter, whether or not compensation is paid therein, until a final return is filed. The ~~withholding agent's~~ Quarterly Withholding payer's Iowa Withholding Tax Quarterly Return is the form prescribed for making the return required under this paragraph. Monthly tax deposits or semimonthly tax deposits may be required in addition to quarterly returns. See ~~subparagraphs Subparagraphs (2) and (3) of paragraph 46.3(3) "a."~~ 46.3(4) "a" contain more information about monthly and semimonthly tax deposits. In some circumstances, only an annual return and payment of withheld taxes will be required; see ~~paragraph 46.3(3) "e."~~ Paragraph 46.3(4) "c" contains more information on annual reporting.

Payments shall be based upon the tax required to be withheld and must be remitted in full.

A ~~withholding agent payer~~ is not required to list the name(s) of the ~~agent's employee(s) payee(s)~~ when filing quarterly returns, ~~nor is the withholding agent required to show on the employee's paycheck or voucher the amount of Iowa income tax withheld.~~

If a ~~withholding agent's payer's~~ payroll is not constant, and the ~~agent payer~~ finds that no ~~wages or other compensation income~~ was paid during the current quarter, the ~~agent payer~~ shall enter the numeral "zero" on the return and submit the return as usual.

(2) Monthly deposits. Every ~~withholding agent payer~~ required to file a quarterly withholding return shall also file a monthly deposit if the amount of tax withheld during any calendar month exceeds \$500; but is less than \$10,000. ~~A withholding agent needs to file a monthly deposit even if no payment is due.~~ No monthly deposit is required for the third month in any calendar quarter. The information otherwise required to be reported on the monthly deposit for the third month in a calendar quarter shall be reported on the quarterly return filed for that quarter, and no monthly deposit need be filed for such month.

(3) Semimonthly deposits. Every ~~withholding agent payer~~ who withholds more than \$5,000 in a semimonthly period must file a semimonthly tax deposit. A semimonthly period is defined as the period from the first day of a calendar month through the fifteenth day of a calendar month, or the period from the sixteenth day of a calendar month through the last day of a calendar month. When semimonthly deposits are required, a ~~withholding agent payer~~ must still file a quarterly return.

(4) Final returns. A ~~withholding agent payer~~ who in any return period permanently ceases doing business shall file the returns required by subparagraphs (1), (2) and (3) of paragraph ~~46.3(3) "a"~~ 46.3(4) "a" as final returns for such period. The ~~withholding agent payer~~ shall cancel the withholding tax registration by ~~notifying the department~~ submitting the Iowa Business Tax Cancellation Form or by canceling the registration using GovConnectIowa.

b. Time for filing returns.

(1) Quarterly returns. Each return required by subparagraph ~~46.3(3) "a"(1)~~ 46.3(4) "a"(1) shall be filed on or before the last day of the first calendar month following the calendar quarter for which such return is made.

(2) Monthly tax deposits. Monthly deposits required by subparagraph ~~46.3(3) "a"(2)~~ 46.3(4) "a"(2) shall be filed on or before the fifteenth day of the second and third months of each calendar quarter for the first and second months of each calendar quarter, respectively.

(3) Semimonthly tax deposits. Semimonthly deposits required by subparagraph ~~46.3(3) "a"(3)~~ 46.3(4) "a"(3) for the semimonthly period from the first day of the month through the fifteenth day of the month shall be filed with payment of the tax on or before the twenty-fifth day of the same month. The semimonthly deposits required by subparagraph ~~46.3(3) "a"(3)~~ 46.3(4) "a"(3) for the semimonthly period from the sixteenth day of the month through the last day of the month shall be filed with payment of the tax on or before the tenth day of the month following the month in which the tax is withheld.

~~For withholding that occurs on or after January 1, 2005, quarterly Quarterly returns, amended returns, monthly deposits and semimonthly deposits shall be made electronically in a format and by means specified by the department of revenue. Tax payments are considered to have been made on the date that the tax is transmitted and released by the vendor to the department. For withholding that occurs on or after January 1, 2022, tax payments shall be made using GovConnectIowa.~~

(4) Determination of ~~filing status~~ payment frequency. ~~Effective July 1, 2002, the The~~ department and the department of management have the authority to change filing payment thresholds by department

REVENUE DEPARTMENT[701](cont'd)

rule. This paragraph sets forth the filing payment thresholds and frequencies for each filer payer based on the amount withheld ~~for withholding that occurs on or after January 1, 2003.~~

The following criteria will be used ~~by the department~~ to determine if a change in filing status payment frequency is warranted.

<u>Filing Status Payment Frequency</u>	<u>Threshold</u>	<u>Test Criteria</u>
Semimonthly	Greater than \$120,000 in annual withholding taxes (more than \$5,000 in a semimonthly period).	Tax remitted in 3 of most recent 4 quarters examined exceeds \$30,000.
Monthly	Between \$6,000 and \$120,000 in annual withholding taxes (more than \$500 in a monthly period).	Tax remitted in 3 of most recent 4 quarters examined exceeds \$1,500 per quarter.
Quarterly	Less than \$6,000 in annual withholding taxes.	Tax remitted in 3 of most recent 4 quarters examined is less than \$1,500 per quarter.
Annual	Less than 3 employees.	

~~When it is determined that a withholding agent's filing status is to be changed, the withholding agent shall be notified in writing. A withholding agent has the option of requesting, within 30 days of the department's notice of a change in filing frequency, that the withholding agent file more or less frequently than required by the department.~~

~~1. To request filing to pay on a less frequent basis than assigned by the department required, the request must be in writing and submitted to the department. A withholding agent's payer's written request to be allowed to file pay less frequently than the filing status assigned by the department will be reviewed by the department, and a written determination will be issued to the withholding agent payer who made the request. A change in assigned filing status payment frequency to file pay on a less frequent basis will be granted in only two instances:~~

- ~~• Incorrect historical data is used in the conversion. A business may meet the criteria based on the original filing data, but, upon investigation, the filing history may prove that the business does not meet the dollar criteria because of adjustments, amended returns, or requests for refunds.~~
- ~~• Data available may have been distorted by the fact that the data reflected an unusual pattern in tax collection. The factors causing such a distortion must be documented and approved by the department.~~

~~If a payer is permitted to pay on a less frequent basis, the payer must begin to pay on the less frequent basis at the start of the next quarter unless the payer is permitted to pay annually, in which case the payer must submit future payments in accordance with paragraph 46.3(4) "c."~~

~~2. A withholding agent payer may also request to file pay more frequently than assigned by the department required. This request may be made orally, in writing, in person, or by telephone. No request is required to be made to pay on a more frequent basis.~~

~~3. The department and the department of management may perform a review of filing payment frequency thresholds every five years or as needed based on department discretion. Factors the departments will consider in determining if the filing payment frequency thresholds need to be changed include, but are not limited to: tax rate changes, inflation, the need to maintain consistency with required multistate compacts, changes in law, and migration between filing brackets.~~

~~(5) Amended return. If the amount of Iowa income tax withheld and remitted to the department of revenue for the year is different than the withheld tax and withholding credits claimed, the payer must report the difference on an amended return and, if the return shows less tax withheld and remitted than shown due, the payer must submit payment to the department.~~

~~c. Reporting annual withholding.~~

REVENUE DEPARTMENT[701](cont'd)

(1) Any ~~withholding agent payer~~ who does not have employee withholding but who is required to withhold state income tax from other distributions is exempted from the provisions of subparagraphs (2) and (3) of paragraph 46.3(3) "a," 46.3(4) "a," if these distributions are made annually in one calendar quarter. These ~~withholding agents payers~~ need only comply with the reporting requirements of the one calendar quarter in which the tax is withheld, ~~and make the required year-end reports.~~

(2) Every ~~withholding agent payer~~ employing not more than two individuals and who expects to employ either or both for the full calendar year may pay with the ~~withholding tax return~~ Iowa Withholding Tax Quarterly Return due for the first calendar quarter of the year the full amount of income taxes which would be required to be withheld from the wages for the full calendar year. The ~~withholding agent payer~~ shall advise the department of revenue that annual reporting is contemplated and shall also state the number of persons employed. The ~~withholding agent payer~~ shall compute the annual withholding from wages by determining the normal withholding for one pay period and multiply this amount by the total number of pay periods within the calendar year. The ~~withholding agent payer~~ shall be entitled to recover from the employee(s) any part of such lump-sum payment that represents an advance to the employee(s). If a ~~withholding agent payer~~ pays a lump sum with the first quarterly return, the ~~agent payer~~ shall be excused from filing further quarterly returns for the calendar year involved unless the ~~agent payer~~ hires other or additional employees. The "Verified Summary of Payments Report" shall be filed at the end of the tax year.

d. Reports for employee Furnishing income statements to payee.

(1) General rule. Every ~~employer payer~~ required to deduct and withhold income tax from compensation of an ~~employee~~ payee must furnish to each ~~employee~~ payee with respect to the ~~compensation~~ income paid in Iowa by such ~~employer payer~~ during the calendar year, ~~a~~ an income statement containing the following information: the name, address, and ~~federal employer taxpayer~~ identification number of the ~~employer payer~~; the name, address, and ~~social security taxpayer~~ identification number of the ~~employee~~ payee; the total amount of ~~compensation~~ taxable income paid in Iowa; ~~and~~ the total amount deducted and withheld as tax under subrule 46.1(1); and the total amount of federal income tax withheld.

(2) Form of income statement. The information required to be furnished to an ~~employee~~ payee under the preceding paragraph shall be furnished on an ~~Internal Revenue Service combined Wage and Tax Statement, Form W-2, hereinafter referred to as "combined W-2,"~~ the appropriate IRS form including but not limited to IRS Form W-2 and IRS Form 1099. Any reproduction, modification, or substitution for a ~~combined W-2~~ an IRS form by the ~~employer payer~~ must be approved by the department. ~~Employers Payers~~ should keep copies of the ~~combined W-2~~ income statements for four years from the end of the year for which the ~~combined W-2~~ applies income statements apply.

(3) Time for furnishing an income statement. Each income statement required by paragraph 46.3(4) "d" to be furnished for a calendar year and each corrected income statement required for any prior year shall be furnished to the ~~employee~~ payee on or before January 31 of the year succeeding such calendar year, or if an employee's employment is terminated before the close of a calendar year without expectation that it will resume during the same calendar year, within 30 days from the day on which the last payment of compensation is made, if requested by such employee, but not later than January 31 of the following year. See paragraph 46.3(3) "e" for Paragraph 46.3(4) "e" contains provisions relating to the filing of copies of the ~~combined W-2~~ certain income statements with the department of revenue, ~~and~~ see subparagraph 46.3(3) "f"(1) for the provision relating to filing W-2 forms with the department for tax year 2019 and all subsequent tax years.

(4) Corrections. An ~~employer~~ A payer must furnish a corrected ~~combined W-2~~ income statement to an ~~employee~~ payee if, after the original statement has been furnished, an error is discovered in either the amount of ~~compensation~~ income shown to have been paid in Iowa for the prior year or the amount of tax shown to have been deducted and withheld in the prior year. ~~Such~~ The corrected statement shall be marked "corrected by the employer." See paragraph 46.3(3) "e" for provisions relating to the filing of a ~~corrected combined W-2~~ with the department.

REVENUE DEPARTMENT[701](cont'd)

(5) ~~Undelivered combined W-2 income statements. Any employee's payee's copy of the combined W-2 income statement which, after reasonable effort, cannot be delivered to an employee a payee shall be transmitted to the department with a letter of explanation.~~

(6) ~~Lost or destroyed. If the combined W-2 income statement is lost or destroyed, the employer payer shall furnish a substitute copy to the employee payee. The copy shall be clearly marked "Reissued by Employer."~~

(7) ~~Penalty. A willful failure to meet the furnishing requirements set out in this paragraph will subject payers to the penalty under Iowa Code section 422.16(10) "a." Rule 701—46.5(422) contains more information about this penalty.~~

~~*e. Annual verified summary of payments reports.*~~

(1) ~~Every withholding agent required to withhold Iowa income tax under subrules 46.1(1), 46.1(2), and 46.4(1) is to furnish to the department of revenue on or before February 15 following the tax year an annual Verified Summary of Payments Report (VSP).~~

~~The withholding agent completing the VSP form must enter the total Iowa income tax withheld that is shown on the W-2 forms and 1099 forms for the year, the new jobs credits, supplemental new jobs credits, accelerated career education credits and targeted jobs credits claimed on withholding returns for the year. In addition, the withholding agent must enter on the VSP the withholding payments made for the year. If the amount of Iowa income tax withholding remitted to the department of revenue for the year is less than the withholding tax and withholding credits claimed, the withholding agent is to report the additional withholding tax due on an amended return and submit payment to the department.~~

~~If the Iowa income tax shown as withheld on the W-2 forms and 1099 forms issued for the tax year is less than the amount of withholding tax remitted to the department of revenue by the withholding agent, the agent should file an amended return with the department reflecting the excess tax paid.~~

(2) ~~For VSP forms filed with the department of revenue for the year 2000 through the year 2016, the withholding agents are not to submit W-2 forms and 1099 forms with the reports. However, the withholding agents should supply W-2 forms or 1099 forms as requested by personnel of the department of revenue if the request for the forms is made within three years from the end of the year for which the W-2 forms or 1099 forms apply. Therefore, if a request is made to a withholding agent for a W-2 form or a 1099 form for the year 2013, the request is valid if the request is postmarked, faxed or made on or before December 31, 2016.~~

(3) ~~Penalty. Failure to meet the filing requirements set out in this paragraph will subject withholding agents to the penalties under Iowa Code section 422.16(10).~~

~~*f. e. W-2 forms. Filing income statements with the department.*~~

(1) ~~For tax year 2019 and all subsequent tax years, all withholding agents payers are required to electronically file all W-2 forms, W-2G forms, and 1099 forms for employees payees from whom Iowa income tax was withheld with the department of revenue on or before February 15 following the tax year. Income statements for tax years beginning on or after January 1, 2022, must be filed using GovConnectIowa.~~

(2) ~~The department of revenue may, in a case involving a hardship, extend the requirement to electronically file to the 2020 tax year. No extension of time shall be granted unless the withholding agent makes a written request to the department of revenue for such action.~~

(2) ~~Corrections. A payer must file a corrected income statement with the department if, after the original statement has been filed, an error is discovered in either the amount of income shown to have been paid in Iowa for the prior year or the amount of tax shown to have been deducted and withheld in the prior year. The corrected statement shall be marked "corrected."~~

(3) ~~Penalty. Failure A willful failure to meet the filing requirements set out in Iowa Code section 422.16 and this paragraph will subject withholding agents payers to the penalties under Iowa Code section 422.16(10). Rule 701—46.5(422) contains more information about this penalty.~~

(4) ~~Other income statements. Any income statement not listed in this paragraph that cannot be submitted electronically must be filed with the department by mail on or before February 15 following the tax year.~~

REVENUE DEPARTMENT[701](cont'd)

(5) Extension. The director or the department employee designated by the director may allow a 30-day extension of time for filing income statements with the department in the case of illness, disability, or absence, or if good cause is shown. To apply for an extension, a payer shall use the form available on the department website.

g. 1099 forms and W-2G forms.

(1) For tax year 2019 and all subsequent tax years, all withholding agents are required to electronically file all 1099 forms and W-2G forms for persons from whom Iowa income tax was withheld on or before February 15 following the tax year.

(2) The department of revenue may, in a case involving a hardship, extend the requirement to electronically file to the 2020 tax year. No extension of time shall be granted unless the withholding agent makes a written request to the department of revenue for such action.

(3) Penalty. Failure to meet the filing requirements set out in this paragraph will subject withholding agents to the penalties under Iowa Code section 422.16(10).

h. f. Withholding deemed to be held in trust. Funds withheld from wages income for Iowa income tax purposes are deemed to be held in trust for payment to the department of revenue. The state and the department shall have a lien upon all the assets of the employer payer and all the property used in the conduct of the employer's payer's business to secure the payment of the tax as withheld under the provisions of this rule. An owner, conditional vendor, or mortgagee of property subject to such lien may exempt the property from the lien granted to Iowa by requiring the employer payer to obtain a certificate from the department, certifying that such employer payer has posted with the department security for the payment of the amounts withheld under this rule.

i. g. Payment of tax deducted and withheld. The amount of tax shown to be due on each deposit or return required to be filed under subrule 46.3(3) 46.3(4) shall be due on or before the date on which such deposit or return is required to be filed.

j. h. Correction of underpayment or overpayment of taxes withheld.

(1) Underpayment. If a return is filed for a return period under rule 701—46.3(422) and less than the correct amount of tax is reported on the return and paid to the department, the employer payer shall report and pay the additional amount due by filing an amended withholding tax return Iowa Withholding Tax Quarterly Return.

(2) Overpayment. If an employer a payer remits more than the correct amount of tax for a return period, the employer must payer may file an amended withholding tax return Iowa Withholding Tax Quarterly Return and request a refund of the withholding tax paid which was not due.

~~46.3(4)~~ 46.3(5) Iowa W-4P—withholding certificate for pension or annuity payments.

a. For payments made from pension plans, annuity plans, individual retirement accounts, or deferred compensation plans to residents of Iowa, payers of these retirement benefits are to use Form IA W-4P for withholding of state income tax from the benefits. Generally, state income tax is required to be withheld from payments of distributions from the retirement incomes described above when federal income tax is being withheld from the payments. However, no state income tax is required to be withheld to the extent the monthly payment amount is \$500 or less or the taxable amount per month is \$500 or less if the payee is eligible for the retirement benefits exclusion described in rule 701—40.47(422). In addition, no state income tax is required to be withheld to the extent the monthly payment amount is \$1,000 or less or the taxable amount per month is \$1,000 or less if the payee is married and eligible for the retirement benefits exclusion described in rule 701—40.47(422).

b. Form IA W-4P is available from the department for payers of retirement benefits that intend to withhold at a rate of 5 percent from the payment amount or taxable payment amount after the \$6,000 to \$12,000 exclusion is considered. Note that the \$6,000 to \$12,000 exclusion is to be allocated to all retirement benefit payments made in the year and not just the first \$6,000 to \$12,000 in payments made in the year to an individual. If an individual receives retirement benefits and has not completed Form IA W-4P, the payer is directed to withhold Iowa income tax from the retirement benefit payment after a \$6,000 exclusion is allowed on an annual basis.

REVENUE DEPARTMENT[701](cont'd)

c. Payers of retirement benefits that want to use withholding formulas or tables to withhold state income tax instead of at the 5 percent rate may design their own IA W-4P withholding certificate form without approval of the department.

d. The payers are not responsible for improper choices made by a payee in completion of the IA W-4P. However, payers cannot accept a request for exemption from the withholding of state income tax made by a payee if federal income tax is being withheld unless the payee is eligible for exemption from withholding.

This rule is intended to implement Iowa Code sections 422.7 and 422.12C; and section 422.16 as amended by ~~2007 Iowa Acts, House File 904, section 3~~ 2022 Iowa Acts, House File 2552.

ITEM 4. Amend rule 701—46.5(422) as follows:

701—46.5(422) Penalty and interest.

46.5(1) Definitions. For the purposes of this rule, the following definitions apply.

“Income statement” means a statement that conforms to the requirements of Iowa Code section 422.16(7) “a.” An income statement includes, but is not limited to, Internal Revenue Service (IRS) Form W-2, IRS Form 1099, and IRS Form W-2G.

“Payee” means an employee or other person who had Iowa income tax withheld pursuant to Iowa Code section 422.16.

“Payer” means an employer or other person required to withhold and remit Iowa income tax pursuant to Iowa Code section 422.16.

~~**46.5(1) 46.5(2) Penalty** Penalties for willful failure to file or furnish an income statement or for willfully filing or furnishing a false or fraudulent income statement. See rule 701—10.6(421) for penalty for tax periods beginning on or after January 1, 1991. See rule 701—10.8(421) for statutory exemptions to penalty for tax periods beginning on or after January 1, 1991.~~

a. Payers responsible for furnishing an income statement to a payee as described in paragraph 46.3(4) “d” and for filing an income statement with the department as described in paragraph 46.3(4) “e” shall be subject to a \$500 penalty for each instance of any of the following:

(1) Willful failure to furnish an income statement to a payee by January 31 of the year following the year in which income tax is withheld.

(2) Willful failure to file an income statement with the department by February 15 of the year following the year in which income tax is withheld.

(3) Willfully furnishing a false or fraudulent income statement to a payee.

(4) Willfully filing a false or fraudulent income statement with the department.

b. Penalties assessed under this subrule may not be waived.

c. Penalties assessed under this subrule are in addition to any other penalty allowed under law.

46.5(3) Penalties for failure to file a return or failure to pay.

a. Payers are subject to the penalties provided in Iowa Code section 421.27 for failure to file a quarterly return and failure to remit any withholding due. A penalty assessed under Iowa Code section 421.27 is in addition to any penalty assessed under law. Rule 701—10.6(421) contains a further explanation and examples applying the penalties under Iowa Code section 421.27. The penalties imposed under Iowa Code sections 421.27(1), 421.27(2), and 421.27(3) may be subject to waiver. Rule 701—10.7(421) contains details on penalty waivers.

b. Pursuant to Iowa Code section 421.27(4), if the department determines that the payer willfully failed to file or pay with the intent to evade tax or a filing requirement, the penalty shall be 75 percent of the unpaid tax. In this case, the penalty is not subject to waiver.

46.5(2) 46.5(4) Computation of interest on unpaid tax. Interest shall accrue on tax due from the original due date of the return. Interest on refunds of any portion of the tax imposed by statute which has been erroneously refunded and which is recoverable by the department shall bear interest as provided by law from the date of payment of the refund, with each fraction of a month considered to be an entire month. ~~See rule~~ Rule 701—10.2(421) for the contains more information about the statutory interest rate.

All payments shall be first applied to the penalty and then to the interest, and the balance, if any, to the amount of tax due.

REVENUE DEPARTMENT[701](cont'd)

46.5(3) 46.5(5) *Computation of interest on overpayments.* If the amount of tax determined to be due by the department is less than the amount paid, the excess to be refunded will accrue interest from the first day of the second calendar month following the date of payment or the date the return was due to be filed or was filed, whichever is the later.

46.5(6) *Examples.*

EXAMPLE 1: Employer has ten employees, all residing in Iowa. After the close of the tax year, Employer fails to furnish two of its employees with W-2s by January 31 of the following year. Additionally, Employer fails to file any W-2s with the department by February 15 of the following year and does not request an extension. If the department determines that Employer's failures to furnish two W-2s to its employees and file ten W-2s with the department were willful, the department shall assess a penalty in the amount of \$6,000 (12 instances x \$500).

EXAMPLE 2: The same facts as Example 1, but the department determines Employer underpaid its withholding obligations by \$2,000 for the tax year. Employer timely filed its required quarterly returns. In addition to the penalties assessed in Example 1, Employer shall be assessed a penalty of \$100 (5% x \$2,000) for failure to pay, plus interest calculated pursuant to subrule 46.5(5). If the department determines Employer willfully underpaid and filed a false return in order to avoid paying Iowa withholding, the department shall assess a penalty of \$1,500 (75% x \$2,000).

This rule is intended to implement Iowa Code sections 421.27, 422.16, and 422.25.

ARC 6537C

REVENUE DEPARTMENT[701]

Notice of Intended Action

**Proposing rule making related to the rent reimbursement program
and providing an opportunity for public comment**

The Revenue Department hereby proposes to amend Chapter 73, "Property Tax Credit and Rent Reimbursement," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 421.14 and 425.37.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 425, subchapter II, as amended by 2021 Iowa Acts, House File 368.

Purpose and Summary

House File 368, enacted during the 2021 Legislative Session, transferred the administration of the rent reimbursement program under Iowa Code chapter 425, subchapter II, from the Iowa Department of Revenue (IDR) to the Iowa Department of Human Services (DHS). This transition is scheduled to occur on January 1, 2023. This proposed rule making addresses three transition issues that IDR and DHS have identified. First, the rule making clarifies that appeals of denials or reductions of rent reimbursement claims shall be filed with and administered by the agency that made the denial or reduction. Second, the rule making addresses claims received by IDR on or after December 1, 2022, requiring that those claims be forwarded to DHS for processing and allowance or disallowance. Finally, the rule making clarifies that all rent reimbursement claims made on and after January 1, 2023, including late or amended claims, should be filed with DHS for determination of eligibility for the credit.

Fiscal Impact

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

REVENUE DEPARTMENT[701](cont'd)

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on October 11, 2022. Comments should be directed to:

Nick Behlke
Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306
Phone: 515.336.9025
Email: nick.behlke@iowa.gov

Public Hearing

If requested, a public hearing at which persons may present their views orally or in writing will be held as follows:

October 11, 2022
1 to 2 p.m.

Via video/conference call

Persons who wish to participate in the video/conference call should contact Nick Behlke before 8 a.m. on October 11, 2022, to facilitate an orderly hearing. A video link or conference call number will be provided to participants prior to the hearing.

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

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Adopt the following **new** rule 701—73.35(425):

701—73.35(425) Transition period. As of January 1, 2023, the rent reimbursement program will be administered by the department of human services. The transition of the program from the department of revenue to the department of human services will be managed as follows:

REVENUE DEPARTMENT[701](cont'd)

73.35(1) Appeals.

a. Appeals of denials or reductions of rent reimbursement claims made by the department of revenue shall be filed with the department of revenue in accordance with 701—Chapter 7 and will be administered in accordance with that chapter.

b. Appeals of denials or reductions of rent reimbursement claims made by the department of human services shall be administered in accordance with 441—Chapter 7.

73.35(2) Claims.

a. Any claim, including late or amended claims, received by the department of revenue on or after December 1, 2022, shall be redirected to the department of human services for processing and allowance or disallowance.

b. Effective January 1, 2023, all claims, including late or amended claims, shall be filed with and processed by the department of human services. The department of human services shall be responsible for making determinations on rent reimbursement claims on and after January 1, 2023.

This rule is intended to implement 2021 Iowa Acts, chapter 41 [House File 368].

ARC 6519C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

**Proposing rule making related to third-party commercial driver's license testers
and providing an opportunity for public comment**

The Transportation Department hereby proposes to amend Chapter 607, “Commercial Driver Licensing,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 307.12 and 321.187.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 321.187 as amended by 2022 Iowa Acts, Senate File 2337.

Purpose and Summary

This proposed rule making updates Chapter 607 to conform the rules with 2022 Iowa Acts, Senate File 2337. This legislation amends Iowa Code section 321.187 to authorize public transit systems and regional public transit systems to be third-party commercial driver's license (CDL) testers, and to allow all third-party testers to administer the CDL knowledge test in addition to the CDL skills test. Under this legislation, any CDL knowledge or skills test offered by a third party must be the same as the test administered by the Department.

The proposed amendments provide that public and regional transit systems may be certified by the Department to be third-party CDL testers and allow all third-party testers to be certified by the Department to administer CDL knowledge tests in addition to CDL skills tests. The proposed amendments adopt definitions for “knowledge test,” “public transit system” and “regional transit system” and amend a few existing definitions to align with the definitions amended within Iowa Code section 321.187. To implement and align the existing rules with the expanded third-party testing functions, the proposed amendments update references to skills testing to include knowledge testing and update references to the Federal Motor Carrier Safety Regulations in 49 CFR Parts 383 and 384.

This proposed rule making clarifies that the existing requirement to maintain a \$50,000 bond is applicable only to a third-party tester that is not a government agency in accordance with federal regulations.

TRANSPORTATION DEPARTMENT[761](cont'd)

The proposed amendments add a new paragraph concerning the revocation of a certificate of authority issued by the Department to a third-party knowledge test examiner if the examiner does not meet certain minimum federal requirements relating to examiner qualifications, training and protocols for suspected fraudulent activity. The proposed amendments also require the Department to revoke the certificate of authority for a third-party test examiner to administer knowledge or skills tests if the examiner fraudulently administers either type of test.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa beyond any impact anticipated by the legislation.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on October 11, 2022. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Government and Community Relations
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

If requested, a public hearing to hear oral presentations will be held on October 13, 2022, via conference call at 10 a.m. Persons who wish to participate in the conference call should contact Tracy George before 4:30 p.m. on October 11, 2022, to facilitate an orderly hearing. A conference call number will be provided to participants prior to the hearing.

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

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

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

Review by Administrative Rules Review Committee

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

TRANSPORTATION DEPARTMENT[761](cont'd)

The following rule-making actions are proposed:

ITEM 1. Amend rule 761—607.30(321) as follows:

761—607.30(321) Third-party testing.

607.30(1) Purpose and definitions. The knowledge tests required by rule 761—607.27(321) and the skills test required by rule 761—607.28(321) may be administered by third-party testers and third-party skills test examiners approved and certified by the department. For the purpose of administering third-party skills testing and this rule, the following definitions shall apply:

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

“*Iowa-based motor carrier*” means a motor carrier or its subsidiary that has its principal place of business in the state of Iowa and operates a permanent commercial driver training facility in the state of Iowa.

“*Iowa nonprofit corporation*” means a nonprofit corporation that serves as a trade association for Iowa-based motor carriers.

“*Knowledge test*” means the knowledge tests required by rule 761—607.27(321).

“*Motor carrier*” means the same as defined in 49 CFR Section 390.5.

“*Permanent commercial driver training facility*” means a facility dedicated to a program of commercial driving instruction that is offered to employees or potential employees of the motor carrier as incident to the motor carrier’s commercial operations, that requires at least 40 hours of instruction, and that includes fixed and permanent structures and facilities for the off-road portions of commercial driving instruction, including classroom, pretrip inspection, and basic vehicle control skills. A permanent commercial driver training facility must include a fixed and paved or otherwise hard-surfaced area for basic vehicle control skills testing that is permanently marked and capable of inspection and measurement by the department.

“*Public transit system*” means the same as defined in Iowa Code section 324A.1.

“*Regional transit system*” means the same as defined in Iowa Code section 324A.1.

“*Skills test*” means the skills test required by rule 761—607.28(321).

“*Subsidiary*” means a company that is partly or wholly owned by a motor carrier that holds a controlling interest in the subsidiary company.

“*Third-party skills test examiner*” means the same as defined in ~~49 CFR Section 383.5~~ Iowa Code section 321.187 as amended by 2022 Iowa Acts, Senate File 2337.

“*Third-party tester*” means the same as defined in ~~49 CFR Section 383.5~~ Iowa Code section 321.187 as amended by 2022 Iowa Acts, Senate File 2337.

607.30(2) Certification of third-party testers.

a. The department may certify as a third-party tester a community college, Iowa-based motor carrier, ~~or Iowa nonprofit corporation,~~ public transit system or regional transit system to administer knowledge tests and skills tests. A community college, Iowa-based motor carrier, ~~or Iowa nonprofit corporation,~~ public transit system or regional transit system that seeks certification as a third-party tester shall contact the motor vehicle division and schedule a review of the proposed testing program, which shall include the proposed testing courses and facilities, information sufficient to identify all proposed third-party skills test examiners, and any other information necessary to demonstrate compliance with ~~49 CFR Section 383.75~~ Parts 383 and 384 applicable to knowledge and skills testing.

b. No community college, Iowa-based motor carrier, ~~or Iowa nonprofit corporation,~~ public transit system or regional transit system shall be certified to conduct third-party testing unless and until the community college, Iowa-based motor carrier, ~~or Iowa nonprofit corporation,~~ public transit system or regional transit system enters an agreement with the department that meets the requirements of 49 CFR Section 383.75 and demonstrates sufficient ability to conduct knowledge and skills tests in a manner that consistently meets the requirements of ~~49 CFR Section 383.75~~ Parts 383 and 384 applicable to knowledge and skills testing.

c. The department shall issue a certified third-party tester a certificate of authority that identifies the classes and types of vehicles for which knowledge and skills tests may be administered. The

TRANSPORTATION DEPARTMENT[761](cont'd)

certificate shall be valid for the duration of the agreement executed pursuant to paragraph 607.30(2) “b,” unless revoked by the department for engaging in fraudulent activities related to conducting knowledge and skills tests or failing to comply with the requirements, qualifications, and standards of this chapter, the agreement, or 49 CFR ~~Section 383.75~~ Parts 383 and 384 applicable to knowledge and skills testing.

607.30(3) Certification of third-party skills test examiners.

a. A certified third-party tester shall not employ or otherwise use as a third-party skills test examiner a person who has not been approved and certified by the department to administer knowledge or skills tests. Each certified third-party tester shall submit for approval the names of all proposed third-party skills test examiners to the department. The department shall not approve as a third-party skills test examiner a person who does not meet the requirements, qualifications, and standards of 49 CFR ~~Sections 383.75 and 384.228~~ Parts 383 and 384 applicable to knowledge and skills testing, including but not limited to all required training and examination and a nationwide criminal background check. The criteria for passing the nationwide criminal background check shall include no felony convictions within the last ten years and no convictions involving fraudulent activities.

b. The department shall issue a certificate of authority for each person certified as a third-party skills test examiner that identifies the certified third-party tester for which the person will administer knowledge or skills tests and the classes and types of vehicles for which the person may administer knowledge or skills tests. The certificate shall be valid for a period of four years from the date of issuance of the certificate.

c. The department shall revoke the certificate of authority for a third-party test examiner to administer skills tests if the person holding the certificate does not administer skills tests to at least ten different applicants per calendar year; does not successfully complete the refresher training required by 49 CFR Section 384.228 every four years; is involved in fraudulent activities related to conducting knowledge or skills tests; or otherwise fails to comply with and meet the requirements, qualifications and standards of this chapter or 49 CFR ~~Sections 383.75 and 384.228~~ Parts 383 and 384 applicable to skills testing. Notwithstanding anything in this paragraph to the contrary, as provided in 49 CFR Section 383.75, if the person does not administer skills tests to at least ten different applicants per calendar year, the certificate will not be revoked for that reason if the person provides proof of completion of the examiner refresher training in 49 CFR Section 384.228 to the department or successfully completes one skills test under the observation of a department examiner.

d. The department shall revoke the certificate of authority for a third-party test examiner to administer knowledge tests if the person holding the certificate does not successfully complete the refresher training required by 49 CFR Section 384.228 every four years, is involved in fraudulent activities related to conducting knowledge or skills tests or otherwise fails to comply with and meet the requirements, qualifications and standards of this chapter or 49 CFR Parts 383 and 384 applicable to knowledge testing.

~~d. e.~~ A third-party skills test examiner certified by the department to administer skills tests who is also a skills instructor shall not administer a skills test to an applicant who received skills training from that third-party skills test examiner.

e. ~~f.~~ A third-party skills test examiner may only administer CDL skills tests for the examiner’s primary employer, unless authorized by the department to administer CDL skills tests for another county or third-party tester.

607.30(4) Bond. As a condition of certification in accordance with 49 CFR Section 383.75, ~~an Iowa-based motor carrier or Iowa nonprofit corporation~~ a third-party tester that is not a government agency as defined in Iowa Code section 553.3 must maintain a bond in the amount of \$50,000 to pay for the retesting of drivers in the event that the third-party tester or one or more of its third-party skills test examiners are involved in fraudulent activities related to conducting skills tests of CDL applicants for a commercial driver’s license.

607.30(5) Limitation applicable to Iowa-based motor carriers. An Iowa-based motor carrier certified as a third-party tester may only administer the knowledge or skills test to persons who are enrolled in the Iowa-based motor carrier’s commercial driving instruction program and shall not administer knowledge or skills tests to persons who are not enrolled in that program.

TRANSPORTATION DEPARTMENT[761](cont'd)

607.30(6) *Training and refresher training for third-party ~~skills~~ test examiners.* All training and refresher training required under this rule shall be provided by the department, in form and content that meet the recommendations of the American Association of Motor Vehicle Administrators’ International Third-Party Examiner/Tester Certification Program.

This rule is intended to implement Iowa Code section 321.187 as amended by 2022 Iowa Acts, Senate File 2337, section 1.

ITEM 2. Amend rule 761—607.31(321) as follows:

761—607.31(321) Test results.

607.31(1) to 607.31(3) No change.

607.31(4) *Skills Knowledge and skills test results from certified third-party testers.* A third-party skills tester certified under rule 761—607.30(321) shall transmit the ~~skills~~ test results of tests administered by the third-party tester through secure electronic means determined by the department. The department may retest any person who has passed a knowledge or skills test administered by a certified third-party tester if it appears to the department that the knowledge or skills test administered by the third-party tester was administered fraudulently or improperly, and as needed to meet the third-party skills test examiner oversight requirements of 49 CFR ~~Section 383.75(a)(5)~~ Parts 383 and 384 applicable to knowledge and skills testing.

607.31(5) No change.

This rule is intended to implement Iowa Code sections 321.180, 321.186, 321.187 as amended by 2022 Iowa Acts, Senate File 2337, section 1, 321.188 and 321.201.

TREASURER OF STATE

Notice—Public Funds Interest Rates

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions Katie Averill, Superintendent of Banking Jeff Plagge, and Auditor of State Rob Sand has established today the following rates of interest for public obligations and special assessments. The usury rate for September is 5.00%.

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

74A.2 Unpaid Warrants	Maximum 6.0%
74A.4 Special Assessments	Maximum 9.0%

RECOMMENDED Rates for Public Obligations (74A.3) and School District Warrants (74A.7). A rate equal to 75% of the Federal Reserve monthly published indices for U.S. Government securities of comparable maturities. All Financial Institutions as defined by Iowa Code section 12C.1 are eligible for public fund deposits as defined by Iowa Code section 12C.6A.

The rate of interest has been determined by a committee of the state of Iowa to be the minimum interest rate that shall be paid on public funds deposited in approved financial institutions. To be eligible to accept deposits of public funds of the state of Iowa, a financial institution shall demonstrate a commitment to serve the needs of the local community in which it is chartered to do business. These needs include credit services as well as deposit services. All such financial institutions are required to provide the committee with a written description of their commitment to provide credit services in the community. This statement is available for examination by citizens.

New official state interest rates, effective September 9, 2022, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TREASURER OF STATE(cont'd)

TIME DEPOSITS

7-31 days	Minimum .05%
32-89 days	Minimum .05%
90-179 days	Minimum .30%
180-364 days	Minimum .35%
One year to 397 days	Minimum .50%
More than 397 days	Minimum .55%

These are minimum rates only. All time deposits are four-tenths of a percent below average rates. Public body treasurers and their depositories may negotiate a higher rate according to money market rates and conditions.

Inquiries may be sent to Michael L. Fitzgerald, Treasurer of State, State Capitol, Des Moines, Iowa 50319.

USURY

In accordance with the provisions of Iowa Code section 535.2, subsection 3, paragraph "a," the Superintendent of Banking has determined that the maximum lawful rate of interest shall be:

October 1, 2021 — October 31, 2021	3.25%
November 1, 2021 — November 30, 2021	3.25%
December 1, 2021 — December 31, 2021	3.50%
January 1, 2022 — January 31, 2022	3.50%
February 1, 2022 — February 28, 2022	3.50%
March 1, 2022 — March 31, 2022	3.75%
April 1, 2022 — April 30, 2022	4.00%
May 1, 2022 — May 31, 2022	4.25%
June 1, 2022 — June 30, 2022	4.75%
July 1, 2022 — July 31, 2022	5.00%
August 1, 2022 — August 31, 2022	5.25%
September 1, 2022 — September 30, 2022	5.00%
October 1, 2022 — October 31, 2022	5.00%

ARC 6520C

PUBLIC EMPLOYMENT RELATIONS BOARD[621]

Adopted and Filed Emergency After Notice

Rule making related to submission of voter eligibility lists

The Public Employment Relations Board hereby amends Chapter 15, “Retention and Recertification Elections,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 20.6(5).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 20.15(2).

Purpose and Summary

These amendments were adopted after feedback and internal review. The adopted amendments relate to the submission of employee voter eligibility lists for retention and recertification elections. These amendments require employers to submit lists to the agency via secure upload rather than by email.

Item 1 requires employers and certified employee organizations to have a representative or agent for service listed in the agency’s secure upload filing system and also requires the employers and certified employee organizations to maintain the accuracy of that information.

Items 2 through 4 address retention and recertification voter eligibility lists. These amendments change the process of submission of voter eligibility lists from email to a secure upload filing system.

Items 2 and 4 also contain conforming amendments regarding the contents of the voter eligibility lists.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 13, 2022, as **ARC 6413C**. A public hearing was held on August 2, 2022, at 10 a.m. via videoconference.

The agency received both informal and formal comments regarding language proposed to be stricken in Item 3 requiring employers to notify employee organizations about the submission of the list.

As a result of the feedback, the language in Item 3 requiring employers to notify employee organizations about the submission of the list was changed to mirror the language already contained in Item 2.

Reason for Waiver of Normal Effective Date

Pursuant to Iowa Code section 17A.5(2)“b”(1)(b) and (c), the Board finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective on August 22, 2022, because the amended rules ensure the safe upload of Iowa public employees’ personally identifiable information to the agency’s secure upload filing system for the fall 2022 recertification election. Without these amendments, employers may transfer this sensitive data using unsecure email.

Adoption of Rule Making

This rule making was adopted by the Board on August 22, 2022.

PUBLIC EMPLOYMENT RELATIONS BOARD[621](cont'd)

Fiscal Impact

The use of a secure upload filing system requires an increase in the expenditure of funds by the agency. However, the cost of the secure upload filing system will be offset by the automation of functions, which reduces the agency time necessary to complete such tasks. Additionally, this system will be used for various functions of the agency.

Jobs Impact

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

Waivers

These rules do not provide for a waiver of their terms, but are instead subject to the agency's general waiver provisions found at rule 621—1.9(17A,20).

Review by Administrative Rules Review Committee

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

Effective Date

This rule making became effective on August 22, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend rule 621—15.1(20) as follows:

621—15.1(20) General procedures. The agency shall determine the date of the election or election period, and the place, method, and other procedural aspects of conducting a retention and recertification election held pursuant to Iowa Code chapter 20. Elections shall be conducted under the direction and supervision of the agency or its election agent and shall be by secret ballot.

Each election will be assigned a "BU" case number in the agency's electronic document management system (EDMS). A party shall electronically file all documents in its respective BU case file unless the rules specify otherwise.

Employers and certified employee organizations shall have a representative or agent for service listed in the applicable BU case file in EDMS and in the agency's secure upload filing system. Employers and certified employee organizations have a continuing duty to update the representative or agent for service in the BU case file in EDMS and in the agency's secure upload filing system.

15.1(1) to 15.1(3) No change.

ITEM 2. Amend subrule 15.2(2) as follows:

15.2(2) Initial eligible voter eligibility list.

a. List for determining fees.

(1) The agency will determine the election fee based on the following initial employer-provided list of employees. When the agency files a notice of intent to conduct a retention and recertification election, the employer shall, within seven days of the notice, ~~email~~ submit to the agency through the agency's secure upload filing system an alphabetical list of the names; addresses; email addresses, if known; telephone numbers, if known; and job classifications of the employees in the bargaining unit. When a telephonic/web-based election is ordered, the list of eligible voters shall also include the employee's date of birth, the last four digits of the employee's social security number and any other information required by the agency. The employer shall separately email the certified employee organization to confirm that the employer provided the agency with the voter list and will provide the date the list was ~~emailed~~

PUBLIC EMPLOYMENT RELATIONS BOARD[621](cont'd)

submitted to the agency and the number of employees on the list. The employer shall format the list as prescribed by the agency and securely upload the list to the agency's secure upload filing system in a manner determined by the agency.

(2) The agency shall file the list of eligible voters' names and job classifications. The agency shall provide to the employee organization the voter list containing the employees' contact information.

b. Final voter eligibility list.

(1) When the agency files an order that the retention and recertification election be conducted, the employer shall, within seven days of the order, ~~email~~ securely upload to the ~~agency a second~~ agency's secure upload filing system an updated alphabetical list of the names; addresses; email addresses, if known; telephone numbers, if known; and job classifications of the employees eligible to vote. When a telephonic/web-based election is ordered, the list of eligible voters shall also include the employee's date of birth, the last four digits of the employee's social security number and any other information required by the agency. If the ~~original~~ previous list the employer provided for ~~determining fees~~ is unchanged, the employer does not need to ~~email~~ upload this ~~second~~ additional list. ~~The original list, if unchanged, or this second list will become the final list.~~ The agency shall file the list of eligible voters' names and job classifications. This list shall become the official ~~eligible voter~~ voter eligibility list for the election to be conducted except as provided in subparagraph 15.2(2) "b"(2). The agency shall provide to the employee organization the voter list containing the employees' contact information.

(2) The employer shall not add to or delete from the list any employee name after the submission of the above-described voter eligibility list. By contacting the employer, the certified employee organization may propose additions to or deletions from the ~~list of employees' names~~ voter list. The employer shall securely upload any mutually agreed upon amended list to the agency's secure upload filing system prior to the date of the election for in-person elections, prior to the date the ballots are mailed for mail-ballot elections, or seven days prior to the commencement of the election period for telephonic/web-based elections. The parties may amend the list by agreement prior to the date of the election for in-person elections, prior to the date the ballots are mailed for mail-ballot elections, or seven days prior to the commencement of the election period for telephonic/web-based elections.

ITEM 3. Amend subrule 15.5(4) as follows:

15.5(4) ~~Eligible voter~~ Voter eligibility list for determining election fee.

a. The public employer shall ~~email~~ submit to the agency through the agency's secure upload filing system a list of the employees in the bargaining unit in question within seven days of the filing of the notice of intent to conduct an election. This list shall be organized alphabetically and contain the names; addresses; email addresses, if known; telephone numbers, if known; and job classifications of the employees in the bargaining unit. When a telephonic/web-based election is ordered, the list of eligible voters shall also include the employee's date of birth, the last four digits of the employee's social security number and any other information required by the agency. The employer shall separately email the certified employee organization to confirm that the employer provided the agency with the voter list and will provide the date the list was ~~emailed~~ submitted to the agency and the number of employees on the list. The employer shall format the list as prescribed by the agency and securely upload the list to the agency's secure upload filing system in a manner determined by the agency. The agency shall file the list of eligible voters' names and job classifications. The agency shall provide to the certified employee organization the list with the employees' contact information. The certified employee organization shall use this list to determine the election fee as provided in subrule 15.5(5).

b. No change.

ITEM 4. Amend subrule 15.5(6) as follows:

15.5(6) *Final voter eligibility list.*

a. When the agency files an order directing that the retention and recertification election be conducted, the employer shall, within seven days of the order, ~~email~~ submit to the agency ~~a second~~ through the agency's secure upload filing system an updated alphabetical list of the names; addresses; email addresses, if known; telephone numbers, if known; and job classifications of the employees eligible to vote. When a telephonic/web-based election is ordered, the list of eligible voters shall also

PUBLIC EMPLOYMENT RELATIONS BOARD[621](cont'd)

include the employee's date of birth, the last four digits of the employee's social security number and any other information required by the agency. If the previous list the employer previously provided pursuant to subrule 15.5(4) is unchanged, the employer does not need to email a subsequent upload this additional list. The agency shall file the list of eligible voters' names and job classifications. This list shall become the official ~~eligible voting~~ voter eligibility list for the election to be conducted except as provided in subparagraph 15.2(2) "b"(2). The agency shall provide to the certified employee organization the voter list containing the employees' contact information.

b. The employer shall not add to or delete from the list any employee name after the submission of the above-described voter eligibility list. By contacting the employer, the certified employee organization may propose additions to or deletions from the list of employees' names prior to the date of the election for in-person elections, prior to the date the ballots are mailed for mail-ballot elections, or seven days prior to the commencement of the election period for telephonic/web-based elections. The parties may amend the list by agreement prior to the date of the election for in-person elections, prior to the date the ballots are mailed for mail-ballot elections, or seven days prior to the commencement of the election period for telephonic/web-based elections.

[Filed Emergency After Notice 8/22/22, effective 8/22/22]

[Published 9/21/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/21/22.

ARC 6524C**MANAGEMENT DEPARTMENT[541]****Adopted and Filed****Rule making related to suspension and reinstatement of state funds**

The Management Department hereby adopts new Chapter 16, “Suspension and Reinstatement of State Funds,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 8.6.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 27B.5 and 27B.6.

Purpose and Summary

This rule making establishes procedures and guidelines to deny state funds to a local entity intentionally violating the provisions of Iowa Code chapter 27B and to reinstate eligibility to receive state funds when a local entity comes into compliance with Iowa Code chapter 27B. This rule making establishes the process by which the Department receives a final judicial determination that the local entity is out of compliance with Iowa Code chapter 27B and is ineligible to receive state funds and funds are denied. This rule making also establishes the process by which the Department receives the declaratory judgment that the local entity is in full compliance with Iowa Code chapter 27B and is eligible to receive state funds and state funds are reinstated.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 27, 2022, as **ARC 6428C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on August 31, 2022.

Fiscal Impact

At this time, it is not possible to estimate the total fiscal impact of Iowa Code sections 27B.5 and 27B.6, and this rule making has no fiscal impact to the State beyond that of the Iowa Code sections it is intended to implement.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 541—1.3(8).

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or

MANAGEMENT DEPARTMENT[541](cont'd)

group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on October 26, 2022.

The following rule-making action is adopted:

Adopt the following **new** 541—Chapter 16:

CHAPTER 16
SUSPENSION AND REINSTATEMENT OF STATE FUNDS

541—16.1(27B) Denial of state funds.

16.1(1) Definitions. For purposes of this chapter:

“*City*” means a municipal corporation but does not include a county, township, school district, or any special-purpose district or authority.

“*County*” means an administrative subdivision in the state governed by a locally elected board of supervisors and may be comprised of subdivisions, including cities, townships, school districts, or any special-purpose district or authority.

“*Declaratory judgment*” means a judgment issued by a district court declaring a local entity is in full compliance with Iowa Code chapter 27B.

“*Department*” means the Iowa department of management, pursuant to Iowa Code chapter 8.

“*Final judicial determination*” means a district court ruling on a civil action brought by the state attorney general's office finding a local entity to have violated the provisions of Iowa Code chapter 27B.

“*Fiscal year*” means the time period beginning on July 1 and ending the following June 30, as defined in Iowa Code section 8.36.

“*Governing body*” means the mayor and city council of a city or the board of supervisors of a county.

“*Local entity*” means the governing body of a city or county and includes an officer or employee of a local entity or a division, department, or other body that is part of a local entity, including but not limited to a sheriff, police department, city attorney, or county attorney. “Local entity” includes local city and county boards and commissions in which membership on the board or commission is the result of an appointment by the city council or the county board of supervisors. “Local entity” does not include local city and county boards and commissions whose membership is determined by election or is specifically set forth by the Iowa Code. “Local entity” does not include multijurisdictional boards and commissions in which a city or county is one of multiple local government members.

“*State agency*” means any board, commission, department or other administrative office or unit of the executive branch of the state as defined by Iowa Code section 7E.4.

“*State funds*” means those funds held by the state that originate from revenues, fees or receipts collected by the state and distributed to local entities. Funds held by the state that are not defined as state funds include:

1. Federal funds (unless provided to the state and awarded as a grant by the state).
2. Funds paid out per gubernatorial or presidential emergency proclamation.
3. Any revenue collected and administered by the state on behalf of a local entity due to a locally imposed tax, fee or fine.
4. Any state funds for the provision of wearable body protective gear used for law enforcement purposes.
5. Payment for public protection, utilities, or goods and services.
6. Payment of settlements.
7. Setoffs as described by Iowa Code section 8A.504.

MANAGEMENT DEPARTMENT[541](cont'd)

16.1(2) Denial of state funds. State funds shall be denied to a local entity pursuant to Iowa Code chapter 27B by all state agencies for each state fiscal year that begins after the date on which a final judicial determination is made in a civil action brought pursuant to Iowa Code section 27B.4(6).

a. The department will send written notification to a state agency to deny state funds. Payments will continue to be made to the local entity until the beginning of the state fiscal year that begins after the date on which a final judicial determination is made, at which time payments will be denied.

b. If a local entity receives state funds through a county, the department will notify the county so that any needed changes may be made to apportionment systems for property tax credits, exemptions and replacements.

c. A state agency will contact a federal granting agency in writing to determine how to administer federal funds when state match funds are denied. The state agency may be required to discontinue drawing federal funds or issue repayments as instructed by the federal granting agency.

d. Funds will continue to be denied until issuance of a declaratory judgment.

541—16.2(27B) Reinstatement of eligibility to receive state funds. Upon issuance of a declaratory judgment, the local entity's eligibility to receive state funds is reinstated.

16.2(1) The department will send written notification to a state agency to reinstate state funds. Payments will be reinstated to the local entity beginning on the first day of the month following the date on which the declaratory judgment is issued.

16.2(2) If the local entity receives state funds through the county, the department will notify the county so that any needed changes may be made to apportionment systems for property tax credits, exemptions and replacements.

16.2(3) A state agency will contact a federal partner in writing to determine how to reinstate a drawdown of federal funds when state match funds are reinstated.

These rules are intended to implement Iowa Code sections 27B.5 and 27B.6.

[Filed 8/31/22, effective 10/26/22]

[Published 9/21/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/21/22.

ARC 6521C

PHARMACY BOARD[657]

Adopted and Filed

Rule making related to controlled substances

The Board of Pharmacy hereby amends Chapter 10, "Controlled Substances," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 124.201.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 124.201.

Purpose and Summary

This rule making temporarily places seven substances (synthetic opioid-related substances) into Schedule I and one substance (a new U.S. Food and Drug Administration (FDA)-approved medication to treat insomnia) into Schedule IV of the Iowa Controlled Substances Act in response to similar action taken by the federal Drug Enforcement Administration.

PHARMACY BOARD[657](cont'd)

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 1, 2022, as **ARC 6334C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on August 24, 2022.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on October 26, 2022.

The following rule-making actions are adopted:

- ITEM 1. Rescind subrule 10.39(2) and adopt the following **new** subrule in lieu thereof:
10.39(2) Amend Iowa Code section 124.204(9) by adding the following new paragraphs:
- y. 2-(2-(4-butoxybenzyl)-5-nitro-1H-benzimidazol-1-yl)-N,N-diethylethan-1-amine and its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers. Other name: Butonitazene.
 - z. 2-(2-(4-ethoxybenzyl)-1H-benzimidazol-1-yl)-N,N-diethylethan-1-amine and its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers. Other names: Etodesnitazene; etazene.
 - aa. N,N-diethyl-2-(2-(4-fluorobenzyl)-5-nitro-1H-benzimidazol-1-yl)ethan-1-amine and its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers. Other name: Flunitazene.
 - ab. N,N-diethyl-2-(2-(4-methoxybenzyl)-1H-benzimidazol-1-yl)ethan-1-amine and its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers. Other name: Metodesnitazene.
 - ac. N,N-diethyl-2-(2-(4-methoxybenzyl)-5-nitro-1H-benzimidazol-1-yl)ethan-1-amine and its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers. Other name: Metonitazene.
 - ad. 2-(4-ethoxybenzyl)-5-nitro-1-(2-(pyrrolidin-1-yl)ethyl)-1H-benzimidazole and its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers. Other names: N-pyrrolidino etonitazene; etonitazepyne.
 - ae. N,N-diethyl-2-(5-nitro-2-(4-propoxybenzyl)-1H-benzimidazol-1-yl)ethan-1-amine and its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers. Other name: Protonitazene.

ITEM 2. Adopt the following **new** subrule 10.39(8):

10.39(8) Amend Iowa Code section 124.210(3) by adding the following new paragraph:

PHARMACY BOARD[657](cont'd)

bg. Daridorexant.

[Filed 8/29/22, effective 10/26/22]

[Published 9/21/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/21/22.

ARC 6522C

PHARMACY BOARD[657]

Adopted and Filed

Rule making related to records of compounded preparations

The Board of Pharmacy hereby amends Chapter 20, "Compounding Practices," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 147.76.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 147.76.

Purpose and Summary

This rule making requires documentation of all ingredient sources, lot numbers, and expiration dates and the steps involved in the compounding process for all nonsterile and sterile compounded preparations. This rule making also separates rule 657—20.23(124,126,155A) into subrules for clarity.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 1, 2022, as **ARC 6333C**. A public hearing was held on June 23, 2022, at 10 a.m. in the Health Professions Board Room, 400 S.W. 8th Street, Suite H, Des Moines, Iowa. No one attended the public hearing.

The Board received five comments about the proposed rule making. Three commenters expressed concern about documenting steps of a preparation when simply following a manufacturer's package insert. One commenter suggested a modification to the term "source" to alleviate confusion. One commenter suggested that the proposed requirement to include the steps involved in compounding implied that a pharmacy would be required to maintain a Master Formulation Record, currently only required by United States Pharmacopoeia (USP) General Chapter 797 (standards for sterile compounded preparations) for compounding preparations for more than one patient or from nonsterile ingredients.

The Board declined action on the comments relating to preparations made following a manufacturer's package insert because that practice is excluded from the definition of "compounding" and, thus, would not be subject to these documentation requirements. The Board also declined action on the comment relating to a Master Formulation Record because the amendment does not require a Master Formulation Record but instead requires only the addition of the compounding steps on a pharmacy's compounding record. The Board agreed with the commenter's concern about the confusion that could arise from the term "source," deleted the word "source" from paragraph 20.23(2)"a," and instead now requires documentation of each ingredient's "manufacturer or National Drug Code (NDC)."

Adoption of Rule Making

This rule making was adopted by the Board on August 24, 2022.

PHARMACY BOARD[657](cont'd)

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on October 26, 2022.

The following rule-making action is adopted:

Amend rule 657—20.23(124,126,155A) as follows:

657—20.23(124,126,155A) Records.

20.23(1) Retention. All records required by this chapter shall be retained as original records of the pharmacy or outsourcing facility and shall be readily available for inspection and photocopying by agents of the board or other authorized authorities for at least two years following the date of the record.

20.23(2) Required elements. Records shall allow for the identification of ~~all~~ the following:

a. All ingredients used in compounding, ~~all~~ including manufacturer or National Drug Code (NDC), lot number, and expiration date.

b. The compounding steps involved in the preparation.

c. All personnel involved in compounding, ~~and all~~.

d. All personnel involved in reviewing compounded preparations.

20.23(3) Batch disbursements. The pharmacy or outsourcing facility shall maintain records documenting the disbursements from each batch of a compounded preparation.

[Filed 8/29/22, effective 10/26/22]

[Published 9/21/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/21/22.

ARC 6525C

REVENUE DEPARTMENT[701]

Adopted and Filed

**Rule making related to the application
of assessment limitations by county auditors**

The Revenue Department hereby amends Chapter 71, "Assessment Practices and Equalization," Iowa Administrative Code.

REVENUE DEPARTMENT[701](cont'd)

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 421.14, 421.17(1), 421.17(4) and 441.21(9).

State or Federal Law Implemented

This rule making implements, in whole or in part, 2022 Iowa Acts, House File 2552, division XI.

Purpose and Summary

This rule making addresses the application of the first of two assessment limitation tiers for commercial, industrial, and railway property assessed under Iowa Code chapter 434. 2022 Iowa Acts, House File 2552, division XI, repeals the Business Property Tax Credit under Iowa Code chapter 426C on July 1, 2024, and creates a two-tier assessment limitation for properties classified as commercial, industrial, and railway property assessed under Iowa Code chapter 434 for assessment years beginning on or after January 1, 2022. The first tier of assessment limitation provides that the first \$150,000 of value for properties classified as commercial, industrial, and railway property assessed under Iowa Code chapter 434 shall receive the assessment limitation percentage applicable to residential property. For the second tier, any value in excess of \$150,000 for commercial, industrial, and railway properties assessed under Iowa Code chapter 434 shall receive a 90 percent assessment limitation.

This rule making requires county auditors to apply the first tier of the assessment limitation proportionately by percentage of total value among the parcels for property units that are comprised of multiple parcels.

Citations in the rule to Iowa Code section 441.21 reflect that section as amended by 2022 Iowa Acts, House File 2552, sections 36 and 37.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 27, 2022, as **ARC 6429C**.

The Department received one comment from the Iowa League of Cities (ILC). ILC commented on the fiscal impact portion of the rule making, referring to the Fiscal Note for House File 2552.

The Department has fully considered the comment from ILC and does not anticipate that prescribing a formula for the application of the assessment limitations via rule will produce a fiscal impact beyond what is described in the Fiscal Note for House File 2552. The fiscal impact portion of this rule making has been updated to state that the rule making has no fiscal impact to the State of Iowa beyond the legislation it is meant to implement. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on August 31, 2022.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa beyond the legislation it is meant to implement.

Jobs Impact

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

Waivers

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

REVENUE DEPARTMENT[701](cont'd)

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on October 26, 2022.

The following rule-making action is adopted:

Adopt the following **new** rule 701—71.29(441):

701—71.29(441) Application of two-tier assessment limitation.

71.29(1) Following receipt of the certification of assessment limitations described in Iowa Code section 441.21(9), the county auditor shall determine the assessed values of property by applying the assessment limitations as required under Iowa Code section 441.21(9).

71.29(2) When a property unit of commercial property, industrial property, or property valued by the department pursuant to Iowa Code chapter 434 is comprised of more than one parcel, the county auditor shall apply the assessment limitations described in Iowa Code sections 441.21(5) "b"(2)(a) and 441.21(5) "c"(2)(a), as applicable, to each parcel within the property unit by dividing 150,000 by the value of the entire property unit and multiplying the quotient by the value of each parcel within the property unit. Any remaining value of each parcel within the property unit shall receive the assessment limitations described in Iowa Code sections 441.21(5) "b"(2)(b) and 441.21(5) "c"(2)(b), as applicable. The assessment limitations shall be applied as whole numbers.

EXAMPLE A: Parcels 1, 2, and 3 comprise one property unit of commercial, industrial, or railway property valued at \$300,000 total.

Parcel 1 is assessed at \$100,000.

Parcel 2 is assessed at \$100,000.

Parcel 3 is assessed at \$100,000.

The first \$50,000 of value of each parcel receives the assessment limitation applicable to residential property. The additional value of each parcel receives the applicable assessment limitation for commercial, industrial, or railway property assessed under Iowa Code chapter 434 described in Iowa Code sections 441.21(5) "b"(2)(b) and 441.21(5) "c"(2)(b).

EXAMPLE B: Parcels 1, 2, 3, and 4 comprise one property unit of commercial, industrial, or railway property valued at \$850,000 total.

Parcel 1 is assessed at \$500,000.

Parcel 2 is assessed at \$200,000.

Parcel 3 is assessed at \$100,000.

Parcel 4 is assessed at \$50,000.

The first \$88,235 of value of Parcel 1 receives the assessment limitation applicable to residential property. The additional value of the parcel receives the applicable assessment limitation for commercial, industrial, or railway property assessed under Iowa Code chapter 434 described in Iowa Code sections 441.21(5) "b"(2)(b) and 441.21(5) "c"(2)(b).

The first \$35,294 of value of Parcel 2 receives the assessment limitation applicable to residential property. The additional value of the parcel receives the applicable assessment limitation for commercial, industrial, or railway property assessed under Iowa Code chapter 434 described in Iowa Code sections 441.21(5) "b"(2)(b) and 441.21(5) "c"(2)(b).

The first \$17,647 of value of Parcel 3 receives the assessment limitation applicable to residential property. The additional value of the parcel receives the applicable assessment limitation for commercial,

REVENUE DEPARTMENT[701](cont'd)

industrial, or railway property assessed under Iowa Code chapter 434 described in Iowa Code sections 441.21(5)“b”(2)(b) and 441.21(5)“c”(2)(b).

The first \$8,824 of value of Parcel 4 receives the assessment limitation applicable to residential property. The additional value of the parcel receives the applicable assessment limitation for commercial, industrial, or railway property assessed under Iowa Code chapter 434 described in Iowa Code sections 441.21(5)“b”(2)(b) and 441.21(5)“c”(2)(b).

EXAMPLE C: Parcels 1 and 2 comprise one property unit of commercial, industrial, or railway property valued at \$500,000 total.

Parcel 1 is assessed at \$400,000.

Parcel 2 is assessed at \$100,000.

The first \$120,000 of value of Parcel 1 receives the assessment limitation applicable to residential property. The additional value of the parcel receives the applicable assessment limitation for commercial, industrial, or railway property assessed under Iowa Code chapter 434 described in Iowa Code sections 441.21(5)“b”(2)(b) and 441.21(5)“c”(2)(b).

The first \$30,000 of value of Parcel 2 receives the assessment limitation applicable to residential property. The additional value of the parcel receives the applicable assessment limitation for commercial, industrial, or railway property assessed under Iowa Code chapter 434 described in Iowa Code sections 441.21(5)“b”(2)(b) and 441.21(5)“c”(2)(b).

This rule is intended to implement Iowa Code sections 441.21(5) and 441.21(9) as amended by 2022 Iowa Acts, House File 2552.

[Filed 8/31/22, effective 10/26/22]

[Published 9/21/22]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 9/21/22.

ARC 6523C

VETERINARY MEDICINE BOARD[811]

Adopted and Filed

Rule making related to veterinarian/client/patient relationships

The Veterinary Medicine Board hereby amends Chapter 1, “Description of Organization and Definitions,” and Chapter 12, “Standards of Practice,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 169.5.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 169.5.

Purpose and Summary

Some of the requirements for a veterinarian/client/patient relationship (VCPR), including a veterinarian’s responsibilities in an emergency setting, were previously set forth in the American Veterinary Medical Association’s document, referenced in the rules, titled Principles of Veterinary Medical Ethics. The Board removed references to the document and adopted its own ethics rules in a separate rule making, **ARC 6212C**, IAB 2/23/22, which became effective on March 30, 2022. The rule requires a VCPR before a veterinarian may provide medical care or prescribe medications to a patient.

The Board adopted additional amendments to the VCPR requirements on December 30, 2021, in **ARC 6171C**, IAB 2/9/22, which require a physical examination of the patient or visits to the premises within the past 12 months to establish a VCPR. The Administrative Rules Review Committee (ARRC),

VETERINARY MEDICINE BOARD[811](cont'd)

at its March 7, 2022, meeting, delayed the effective date of that rule making by 70 days from April 1, 2022, to June 10, 2022.

This rule making addresses public comments made during the previous two rule makings and at Board meetings. Currently, a VCPR is established when three criteria are met. This rule making clarifies and revises two of the criteria to allow a VCPR for groups of animals and allows a licensed veterinarian with a VCPR to designate another licensed veterinarian to consult or provide backup care. This rule making clarifies and addresses the responsibilities of veterinarians who provide services in an emergency setting, which were previously explained in the rule-referenced document. This rule making establishes an applicability date to avoid retroactive application of the 12-month requirement as required in **ARC 6171C**.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 13, 2022, as **ARC 6403C**. This rule making was also adopted and filed emergency and published in the Iowa Administrative Bulletin as **ARC 6397C** on the same date.

One public comment was received, which suggested minor alterations to the proposed amendments to provide additional clarity. These changes have been incorporated.

The proposed definition for “premises” was not adopted because the term is used in other instances in the chapter in which the definition would not make sense. The substance of the definition has been incorporated into the relevant item of the rule making.

Additionally, the word “temporarily” has been added to subparagraph 12.1(1)“b”(3) to clarify that the VCPR designation is for a limited period of time.

Adoption of Rule Making

This rule making was adopted by the Board on August 25, 2022.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 811—Chapter 14.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on October 26, 2022, at which time the Adopted and Filed Emergency rule making is hereby rescinded.

The following rule-making actions are adopted:

VETERINARY MEDICINE BOARD[811](cont'd)

ITEM 1. Amend rule 811—1.4(17A,169), introductory paragraph, as follows:

811—1.4(17A,169) Definitions. As used in ~~these~~ the rules of the board, unless the context otherwise requires:

ITEM 2. Adopt the following new definitions of “Emergency” and “Physical examination” in rule **811—1.4(17A,169)**:

“*Emergency*” means that an animal has been placed in a life-threatening condition and immediate treatment is necessary to sustain life or that death is imminent, and action is necessary to relieve extreme pain or suffering.

“*Physical examination*” means a veterinarian is physically proximate, hands-on to the patient and subjectively and objectively evaluates the patient’s health status through the use of observation, auscultation, palpation, percussion or manipulations, or, for a group of patients, the veterinarian is physically proximate to the group of patients and has subjectively and objectively assessed a representative sample of the patients.

ITEM 3. Amend rule 811—12.1(169) as follows:

811—12.1(169) Veterinarian/client/patient relationships.

12.1(1) The board shall determine, on a case-by-case basis, if a valid veterinarian/client/patient relationship exists. This relationship shall be deemed to exist when all of the following criteria have been met:

a. The licensed veterinarian has assumed the responsibility for making medical judgments regarding the health of the patient and the need for medical treatment, and the client has agreed to follow the instructions of the licensed veterinarian;

b. The licensed veterinarian has sufficient knowledge of the patient to initiate at least a general or preliminary diagnosis of the medical condition of the patient. Sufficient knowledge means that the licensed veterinarian has recently seen or is personally acquainted with the keeping and care of the patient by virtue of a physical examination of the patient within the past 12 months or a visit to the premises where the patient is kept within the past 12 months; and any of the following:

(1) A physical examination of the patient within the past 12 months;
 (2) A professional visit within the past 12 months to the premises where the patient or representative patients are housed, kept, located, or grazed; or

(3) The licensed veterinarian has been temporarily designated by a licensed veterinarian, who has a prior veterinarian/client/patient relationship, to provide reasonable and appropriate medical care. The veterinarian making the designation shall have met the requirements of either subparagraph 12.1(1)“b”(1) or 12.1(1)“b”(2), and the designated veterinarian must have access to the patient’s medical records.

The 12-month time period in paragraph 12.1(1)“b” shall not apply until June 14, 2023.

c. The licensed veterinarian is readily available or provides for follow-up care in case of adverse reactions or failure of the regimen of therapy, or, if unavailable, has designated another available licensed veterinarian who has access to the patient’s records to provide reasonable and appropriate medical care.

12.1(2) A valid veterinarian/client/patient relationship cannot be established by contact solely based on a telephonic or electronic communication.

12.1(3) In the absence of a veterinarian/client/patient relationship:

a. Any advice which is provided through electronic means must be general and not specific to a particular animal or its diagnosis or treatment.

b. Advice and recommendations may be provided via veterinary telephonic or electronic communication in an emergency, but only until the animal can be examined in person by a licensed veterinarian.

~~12.1(3)~~ **12.1(4)** Both the licensed veterinarian and the client have the right to establish or decline a valid veterinarian/client/patient relationship. Once the licensed veterinarian and the client have agreed and entered into a relationship, and the licensed veterinarian has begun patient care, the licensed

VETERINARY MEDICINE BOARD[811](cont'd)

veterinarian may not neglect the patient and must continue to provide professional services related to the patient's injury or illness within the previously agreed limits. As subsequent needs and costs for patient care are identified, the licensed veterinarian and the client must confer and reach agreement on the continued care and responsibility for fees. If the informed client declines future care or declines to assume responsibility for the fees, the relationship may be terminated by either party.

~~12.1(4)~~ **12.1(5)** If no ongoing medical condition exists, a licensed veterinarian may terminate a valid veterinarian/client/patient relationship by notifying the client that the licensed veterinarian no longer wishes to serve that patient and client. However, if an ongoing medical or surgical condition exists, the patient should be referred to another licensed veterinarian for diagnosis, care, and treatment and the former attending licensed veterinarian should continue to provide care as needed during the transition.

~~12.1(5)~~ **12.1(6)** Concerns about licensed veterinarian or staff safety may result in immediate termination of the veterinarian/client/patient relationship.

12.1(7) In emergencies, a veterinarian has an ethical responsibility to provide essential services for an animal when necessary to save the animal's life or relieve extreme suffering, subsequent to a client agreement (or until such agreement can be obtained when a client is not present or cannot be reached). Such emergency care may be limited to relieve extreme pain or suffering, or to stabilization of the patient for transport to another source of animal care or euthanasia when deemed necessary by the veterinarian. When a veterinarian cannot be available to provide services, the veterinarian should provide readily accessible information to assist a client in obtaining emergency services, consistent with the needs of the locality. In an emergency, if a veterinarian does not have the expertise or the necessary equipment and facilities to adequately diagnose or treat a patient, the veterinarian should advise the client that more qualified or specialized services are available elsewhere and offer to expedite referral to those services.

12.1(8) A licensed veterinarian who in good faith engages in the practice of veterinary medicine by rendering or attempting to render emergency or urgent care to a patient when a client cannot be identified, and a veterinarian/client/patient relationship is not established, shall not be subject to discipline based solely on the veterinarian's inability to establish a veterinarian/client/patient relationship.

[Filed 8/29/22, effective 10/26/22]

[Published 9/21/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/21/22.