



IOWA ADMINISTRATIVE BULLETIN

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CONTENTS IN THIS ISSUE

Pages 530 to 592 include **ARC 5179C** to **ARC 5197C**

ADVISORY NOTICES

- Public hearings: possible use of telephonic or electronic format due to COVID-19. 593
- Correction to effective date of **ARC 4928C** 594

AGENDA

- Administrative rules review committee 523

ALCOHOLIC BEVERAGES DIVISION[185]

COMMERCE DEPARTMENT[181]"umbrella"

- Filed, Filling and selling of beer and wine in a container other than the original container, 4.6, 4.11 **ARC 5191C**. 564
- Filed, Personal importation of alcoholic liquor, wine, and beer, 9.1, 9.2 **ARC 5192C** 567

ALL AGENCIES

- Agency identification numbers 527
- Citation of administrative rules. 521
- Schedule for rule making. 522

DENTAL BOARD[650]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

- Notice, Continuing education—volunteer dental services, 25.5(2), 25.6(1), 25.9(8) **ARC 5193C**. 530

ECONOMIC DEVELOPMENT AUTHORITY[261]

- Notice, Reinvestment districts program, amendments to ch 200 **ARC 5185C** 532

EXECUTIVE DEPARTMENT

- Advisory Notice, Public hearings: possible use of telephonic or electronic format due to COVID-19. 593

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]

- Filed, Local emergency management—recovery and mitigation plans, 7.3(4)“d” **ARC 5186C** 569

HUMAN SERVICES DEPARTMENT[441]

- Advisory Notice, Correction to effective date of **ARC 4928C** 594

INSPECTIONS AND APPEALS DEPARTMENT[481]

- Filed, Licensing sanction prohibition for student loan debt repayment default or delinquency and related service obligations, amendments to ch 8 **ARC 5187C**. 571

INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]"umbrella"

- Filed, Contested cases; waivers; interventions, amendments to chs 3, 4 **ARC 5197C** 572

NURSING BOARD[655]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

- Filed, Iowa nurse assistance program, 19.1, 19.2, 19.4, 19.6 **ARC 5188C** 583

PHARMACY BOARD[657]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

- Notice, Temporary designation of controlled substances, 10.39 **ARC 5195C** 540
- Notice, Nuclear pharmacy practice—adoption by reference of USP General Chapter 825, 16.4(6) **ARC 5194C** 541

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Filed, Licensing sanction prohibition for student loan debt repayment default or delinquency; continuing education exemptions for funeral directors, 4.12(1), 4.16 **ARC 5189C** 586

PUBLIC FUNDS—AVAILABILITY

Homeland Security and Emergency Management Department, FEMA DR-4557-IA 529

PUBLIC HEALTH DEPARTMENT[641]

Notice, Definition of “primary care”; waivers, 15.7, 70.11, 108.3(5), 155.1, amendments to ch 178 **ARC 5196C** 542

PUBLIC HEARINGS

Summarized list 525

REVENUE DEPARTMENT[701]

Notice, Local assessors, 7.37, 71.27, 71.28, 72.15, 72.16 **ARC 5182C** 546

Notice, Adoption tax credit—qualified adoption expenses, 42.52 **ARC 5181C** 551

Notice, Withholding—electronic filing requirements, deadline for furnishing statements, 46.3(3) **ARC 5183C** 554

Notice, Transmittal of declaration of value forms, 79.3(3) **ARC 5184C** 557

Filed, Tax return preparers, 7.36 **ARC 5190C** 588

TRANSPORTATION DEPARTMENT[761]

Notice, Removal of “variance” in reference to “waiver or variance,” 11.1(1), 112.12(2)“c” **ARC 5180C** 559

Notice, Driver’s license or nonoperator’s identification indicators—autism status, “hard of hearing,” 605.5(7), 605.10, 630.2(4) **ARC 5179C** 561

TREASURER OF STATE

Notice—Public funds interest rates 558

USURY

Notice 563

PREFACE

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

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

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

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

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CITATION of Administrative Rules

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

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

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

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

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

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

Schedule for Rule Making 2020

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. 26 '19	Jan. 15 '20	Feb. 4 '20	Feb. 19 '20	Feb. 21 '20	Mar. 11 '20	Apr. 15 '20	July 13 '20
Jan. 8	Jan. 29	Feb. 18	Mar. 4	Mar. 6	Mar. 25	Apr. 29	July 27
Jan. 24	Feb. 12	Mar. 3	Mar. 18	Mar. 20	Apr. 8	May 13	Aug. 10
Feb. 7	Feb. 26	Mar. 17	Apr. 1	Apr. 3	Apr. 22	May 27	Aug. 24
Feb. 21	Mar. 11	Mar. 31	Apr. 15	Apr. 17	May 6	June 10	Sep. 7
Mar. 6	Mar. 25	Apr. 14	Apr. 29	May 1	May 20	June 24	Sep. 21
Mar. 20	Apr. 8	Apr. 28	May 13	**May 13**	June 3	July 8	Oct. 5
Apr. 3	Apr. 22	May 12	May 27	May 29	June 17	July 22	Oct. 19
Apr. 17	May 6	May 26	June 10	June 12	July 1	Aug. 5	Nov. 2
May 1	May 20	June 9	June 24	**June 24**	July 15	Aug. 19	Nov. 16
May 13	June 3	June 23	July 8	July 10	July 29	Sep. 2	Nov. 30
May 29	June 17	July 7	July 22	July 24	Aug. 12	Sep. 16	Dec. 14
June 12	July 1	July 21	Aug. 5	Aug. 7	Aug. 26	Sep. 30	Dec. 28
June 24	July 15	Aug. 4	Aug. 19	**Aug. 19**	Sep. 9	Oct. 14	Jan. 11 '21
July 10	July 29	Aug. 18	Sep. 2	Sep. 4	Sep. 23	Oct. 28	Jan. 25 '21
July 24	Aug. 12	Sep. 1	Sep. 16	Sep. 18	Oct. 7	Nov. 11	Feb. 8 '21
Aug. 7	Aug. 26	Sep. 15	Sep. 30	Oct. 2	Oct. 21	Nov. 25	Feb. 22 '21
Aug. 19	Sep. 9	Sep. 29	Oct. 14	Oct. 16	Nov. 4	Dec. 9	Mar. 8 '21
Sep. 4	Sep. 23	Oct. 13	Oct. 28	**Oct. 28**	Nov. 18	Dec. 23	Mar. 22 '21
Sep. 18	Oct. 7	Oct. 27	Nov. 11	**Nov. 12**	Dec. 2	Jan. 6 '21	Apr. 5 '21
Oct. 2	Oct. 21	Nov. 10	Nov. 25	Nov. 27	Dec. 16	Jan. 20 '21	Apr. 19 '21
Oct. 16	Nov. 4	Nov. 24	Dec. 9	**Dec. 9**	Dec. 30	Feb. 3 '21	May 3 '21
Oct. 28	Nov. 18	Dec. 8	Dec. 23	**Dec. 23**	Jan. 13 '21	Feb. 17 '21	May 17 '21
Nov. 12	Dec. 2	Dec. 22	Jan. 6 '21	**Jan. 6 '21**	Jan. 27 '21	Mar. 3 '21	May 31 '21
Nov. 27	Dec. 16	Jan. 5 '21	Jan. 20 '21	Jan. 22 '21	Feb. 10 '21	Mar. 17 '21	June 14 '21
Dec. 9	Dec. 30	Jan. 19 '21	Feb. 3 '21	Feb. 5 '21	Feb. 24 '21	Mar. 31 '21	June 28 '21
Dec. 23	Jan. 13 '21	Feb. 2 '21	Feb. 17 '21	Feb. 19 '21	Mar. 10 '21	Apr. 14 '21	July 12 '21

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
9	Friday, October 2, 2020	October 21, 2020
10	Friday, October 16, 2020	November 4, 2020
11	Wednesday, October 28, 2020	November 18, 2020

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 13, 2020, at 9 a.m. in Room 103, State Capitol, Des Moines, Iowa. Instructions for participation by videoconference can be found here: www.legis.iowa.gov/committees/meetings/meetingsListComm?groupID=705&ga=88&session=2. For more information, contact Jack Ewing at Jack.Ewing@legis.iowa.gov. The following rules will be reviewed:

ALCOHOLIC BEVERAGES DIVISION[185]

COMMERCE DEPARTMENT[181]"umbrella"

- Filling and selling of beer and wine in a container other than the original container, 4.6, 4.11
Filed ARC 5191C..... 9/23/20
- Personal importation of alcoholic liquor, wine, and beer, 9.1, 9.2 Filed ARC 5192C 9/23/20

CHIEF INFORMATION OFFICER, OFFICE OF THE[129]

- Broadband—targeted service areas, project certification, grants program, 20.1 to 20.6, 21.2, 21.3, 21.6, 21.7, 22.1, 22.2, 22.4 to 22.6, 22.8 Filed ARC 5173C..... 9/9/20

DENTAL BOARD[650]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

- Continuing education—volunteer dental services, 25.5(2), 25.6(1), 25.9(8) Notice ARC 5193C..... 9/23/20

ECONOMIC DEVELOPMENT AUTHORITY[261]

- Reinvestment districts program, amendments to ch 200 Notice ARC 5185C 9/23/20

EDUCATIONAL EXAMINERS BOARD[282]

EDUCATION DEPARTMENT[281]"umbrella"

- Military exchange license issuance—removal of fee, 12.1, 13.17(3)"f" Notice ARC 5168C 9/9/20
- Substitute authorizations, 13.16, 22.2, 24.4 Notice ARC 5169C 9/9/20

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]

- Local emergency management—recovery and mitigation plans, 7.3(4)"d" Filed ARC 5186C..... 9/23/20

HUMAN SERVICES DEPARTMENT[441]

- Medical and remedial services, 9.12(1)"a," 78.12, 78.19(1)"a," 78.27, 78.34, 78.41(9), 78.43(14), 78.52(4)"b," 79.1, 81.13(14)"b," 153.55(2)"d" Notice ARC 5167C 9/9/20
- Nursing facilities—quality assurance assessment, 36.6(2) Notice ARC 5165C 9/9/20
- Medicaid for employed people with disabilities program—premium amounts, 75.1(39)"b"
Filed ARC 5174C..... 9/9/20
- Day habilitation services, 77.25(7), 77.37(27), 78.27(8), 78.41(14) Notice ARC 5166C..... 9/9/20
- Statewide pharmacy protocols, 77.57, 78.2, 78.42, 79.1 Filed ARC 5175C..... 9/9/20

INSPECTIONS AND APPEALS DEPARTMENT[481]

- Licensing sanction prohibition for student loan debt repayment default or delinquency and related service obligations, amendments to ch 8 Filed ARC 5187C..... 9/23/20

INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]"umbrella"

- Contested cases; waivers; interventions, amendments to chs 3, 4 Filed ARC 5197C..... 9/23/20

NATURAL RESOURCE COMMISSION[571]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

- Designation of "no anchoring" and "no boating" zoned areas on Rathbun Lake, 40.5 Filed ARC 5176C..... 9/9/20

NURSING BOARD[655]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

- Administrative and regulatory authority—hiring and supervising of executive director, 1.3(2)"j" Notice ARC 5164C 9/9/20
- Nursing practice for registered nurses/licensed practical nurses, ch 6 Notice ARC 5172C 9/9/20
- Iowa nurse assistance program, 19.1, 19.2, 19.4, 19.6 Filed ARC 5188C 9/23/20

PHARMACY BOARD[657]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

- Temporary designation of controlled substances, 10.39 Notice ARC 5195C..... 9/23/20
- Nuclear pharmacy practice—adoption by reference of USP General Chapter 825, 16.4(6)
Notice ARC 5194C 9/23/20
- Accreditation—wholesale distributors, third-party logistics providers, 17.3(1)"c," 43.3(1)
Notice ARC 5171C 9/9/20

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

- Licensing sanction prohibition for student loan debt repayment default or delinquency; continuing education exemptions for funeral directors, 4.12(1), 4.16 Filed **ARC 5189C**..... 9/23/20
- Speech pathologists and audiologists—continuing education hours, 303.3(2)“f” Notice **ARC 5163C** 9/9/20
- Physician assistants—licensure, practice, discipline, 326.1, 326.6, 326.15, 326.18, 326.19(3)“b,” 327.1, 327.4, 327.5, 327.6, 329.2(25) Filed **ARC 5177C** 9/9/20

PUBLIC HEALTH DEPARTMENT[641]

- Definition of “primary care”; waivers, 15.7, 70.11, 108.3(5), 155.1, amendments to ch 178
Notice **ARC 5196C** 9/23/20

REVENUE DEPARTMENT[701]

- Local assessors, 7.37, 71.27, 71.28, 72.15, 72.16 Notice **ARC 5182C** 9/23/20
- Tax return preparers, 7.36 Filed **ARC 5190C** 9/23/20
- Adoption tax credit—qualified adoption expenses, 42.52 Notice **ARC 5181C**..... 9/23/20
- Withholding—electronic filing requirements, deadline for furnishing statements, 46.3(3)
Notice **ARC 5183C** 9/23/20
- Transmittal of declaration of value forms, 79.3(3) Notice **ARC 5184C** 9/23/20

TRANSPORTATION DEPARTMENT[761]

- Removal of “variance” in reference to “waiver or variance,” 11.1(1), 112.12(2)“c” Notice **ARC 5180C**..... 9/23/20
- Electric vehicle fees, 400.1, 400.16, 400.32, 400.44(1), 400.60, 505.1 to 505.4, 505.6(2)“b”
Filed **ARC 5178C**..... 9/9/20
- Abandoned vehicles, amendments to ch 480 Notice **ARC 5170C** 9/9/20
- Driver’s license or nonoperator’s identification indicators—autism status, “hard of hearing,” 605.5(7), 605.10, 630.2(4) Notice **ARC 5179C**..... 9/23/20

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
109 South Summer Street
St. Ansgar, Iowa 50472

Representative Steven Holt
1430 Third Avenue South
Denison, Iowa 51442

Senator Mark Costello
37265 Rains Avenue
Imogene, Iowa 51645

Representative Megan Jones
4470 Highway 71
Sioux Rapids, Iowa 50585

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

Representative Joe Mitchell
Mount Pleasant, Iowa

Senator Pam Jochum
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Dubuque, Iowa 52001

Representative Amy Nielsen
168 Lockmoor Circle
North Liberty, Iowa 52317

Senator Zach Whiting
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Spirit Lake, Iowa 51360

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NOTE: See also the Advisory Notice on page 593.

EDUCATIONAL EXAMINERS BOARD[282]

Military exchange license issuance—removal of fee, 12.1, 13.17(3)“f” IAB 9/9/20 ARC 5168C	Board Room 701 E. Court Ave., Suite A Des Moines, Iowa	September 30, 2020 1 p.m.
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Substitute authorizations, 13.16, 22.2, 24.4 IAB 9/9/20 ARC 5169C	Board Room 701 E. Court Ave., Suite A Des Moines, Iowa	September 30, 2020 1 p.m.
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INSURANCE DIVISION[191]

Licensing—producers, viatical settlement brokers, viatical settlement providers, public adjusters, amendments to chs 10, 48, 55, 58 IAB 8/12/20 ARC 5129C	Via conference call Contact Tracy Swalwell Phone: 515.725.1249 Email: tracy.swalwell@iid.iowa.gov	September 7, 2020 10 to 11 a.m.
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NURSING BOARD[655]

Administrative and regulatory authority—hiring and supervising of executive director, 1.3(2)“j” IAB 9/9/20 ARC 5164C	Board Office, Suite B 400 S.W. 8th St. Des Moines, Iowa	September 29, 2020 9 to 10 a.m.
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Nursing practice for registered nurses/licensed practical nurses, ch 6 IAB 9/9/20 ARC 5172C	Board Office, Suite B 400 S.W. 8th St. Des Moines, Iowa	September 29, 2020 9 to 10 a.m.
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PROFESSIONAL LICENSURE DIVISION[645]

Speech pathologists and audiologists—continuing education hours, 303.3(2)“f” IAB 9/9/20 ARC 5163C	Option 1: Join Webex hearing on www.webex.com , click “JOIN,” then enter the following information: Meeting ID Number: 1465147897 Password: bZ9afPM@ Option 2: Join by video system 1465147897@webex.com Option 3: Join by phone +1 408.418.9388 (toll) Access code: 146 514 789 7	September 29, 2020 9 to 9:30 a.m.
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REVENUE DEPARTMENT[701]

Local assessors, 7.37, 71.27, 71.28, 72.15, 72.16 IAB 9/23/20 ARC 5182C	Via Google Meet: meet.google.com/wbe-kywn-bmh Via phone: +1 316.536.0149 PIN: 534 220 226# Mute phones or microphones upon entering the meeting	October 13, 2020 1:30 to 2:30 p.m.
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REVENUE DEPARTMENT[701](cont'd)

Transmittal of declaration of value forms, 79.3(3) IAB 9/23/20 ARC 5184C	Via Google Meet: meet.google.com/vmf-iced-vma Via phone: +1 402.821.1140 PIN: 395 454 339# Mute phones or microphones upon entering the meeting	October 13, 2020 2:30 to 3:30 p.m.
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TRANSPORTATION DEPARTMENT[761]

Removal of “variance” in reference to “waiver or variance,” 11.1(1), 112.12(2)“c” IAB 9/23/20 ARC 5180C	Via conference call Contact Tracy George Email: tracy.george@iowadot.us	October 15, 2020 9 to 10 a.m. (If requested)
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Abandoned vehicles, amendments to ch 480 IAB 9/9/20 ARC 5170C	Via conference call Contact Tracy George Email: tracy.george@iowadot.us	October 1, 2020 9 to 10 a.m. (If requested)
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Driver’s license or nonoperator’s identification indicators—autism status, “hard of hearing,” 605.5(7), 605.10, 630.2(4) IAB 9/23/20 ARC 5179C	Via conference call Contact Tracy George Email: tracy.george@iowadot.us	October 15, 2020 10 to 11 a.m. (If requested)
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UTILITIES DIVISION[199]

Rate cases, tariffs, and rate-regulation election practice and procedure, ch 26 IAB 7/29/20 ARC 5107C	Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa	October 20, 2020 9 a.m. to 12 noon
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The following list will be updated as changes occur.

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

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

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

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]
 ENERGY INDEPENDENCE, OFFICE OF[350]
 ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]
 EXECUTIVE COUNCIL[361]
 FAIR BOARD[371]
 HUMAN RIGHTS DEPARTMENT[421]
 Community Action Agencies Division[427]
 Criminal and Juvenile Justice Planning Division[428]
 Deaf Services Division[429]
 Persons With Disabilities Division[431]
 Latino Affairs Division[433]
 Status of African-Americans, Division on the[434]

Status of Women Division[435]
Status of Iowans of Asian and Pacific Islander Heritage[436]
HUMAN SERVICES DEPARTMENT[441]
INSPECTIONS AND APPEALS DEPARTMENT[481]
Employment Appeal Board[486]
Child Advocacy Board[489]
Racing and Gaming Commission[491]
State Public Defender[493]
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]
IOWA PUBLIC INFORMATION BOARD[497]
LAW ENFORCEMENT ACADEMY[501]
LIVESTOCK HEALTH ADVISORY COUNCIL[521]
LOTTERY AUTHORITY, IOWA[531]
MANAGEMENT DEPARTMENT[541]
Appeal Board, State[543]
City Finance Committee[545]
County Finance Committee[547]
NATURAL RESOURCES DEPARTMENT[561]
Energy and Geological Resources Division[565]
Environmental Protection Commission[567]
Natural Resource Commission[571]
Preserves, State Advisory Board for[575]
PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]
PREVENTION OF DISABILITIES POLICY COUNCIL[597]
PROPANE EDUCATION AND RESEARCH COUNCIL, IOWA[599]
PUBLIC DEFENSE DEPARTMENT[601]
HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]
Military Division[611]
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]

FEMA DR-4557-IA

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

ARC 5193C**DENTAL BOARD[650]****Notice of Intended Action****Proposing rule making related to continuing education credit for volunteer dental services and providing an opportunity for public comment**

The Dental Board hereby proposes to amend Chapter 25, “Continuing Education,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed 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 chapter 272C and sections 147.10, 153.15A and 153.39.

Purpose and Summary

The proposed amendments would allow continuing education credit for the purposes of license renewal for the delivery of volunteer dental services without compensation at free clinics. Current rules prohibit the designation of continuing education hours for the purposes of license renewal to individuals who volunteer their services.

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 650—7.4(17A,147,153).

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 16, 2020. Comments should be directed to:

Iowa Dental Board
400 S.W. Eighth Street, Suite D
Des Moines, Iowa 50309
Phone: 515.281.3248
Fax: 515.281.7969
Email: steven.garrison@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

DENTAL BOARD[650](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. Amend subrule 25.5(2) as follows:

25.5(2) Types of activities acceptable for continuing dental education credit may include:

- a. A dental science course that includes topics which address the clinical practice of dentistry, dental hygiene, dental assisting and dental public health.
- b. Courses in record keeping, medical conditions which may have an effect on oral health, ergonomics related to clinical practice, HIPAA, risk management, sexual boundaries, communication with patients, OSHA regulations, and the discontinuation of practice related to the transition of patient care and patient records.
- c. Sessions attended at a multiday convention-type meeting. A multiday convention-type meeting is held at a national, state, or regional level and involves a variety of concurrent educational experiences directly related to the practice of dentistry.
- d. Postgraduate study relating to health sciences.
- e. Successful completion of a recognized specialty examination or the Dental Assisting National Board (DANB) examination.
- f. Self-study activities.
- g. Original presentation of continuing dental education courses.
- h. Publication of scientific articles in professional journals related to dentistry, dental hygiene, or dental assisting.
- i. Delivery of volunteer dental services without compensation through a free clinic, the purpose of which is the delivery of health care services to low-income or underserved individuals.

ITEM 2. Amend subrule 25.6(1) as follows:

25.6(1) Unacceptable subject matter and activity types include, but are not limited to, personal development, business aspects of practice, business strategy, financial management, marketing, sales, practice growth, personnel management, insurance, ~~and collective bargaining, and events where volunteer services are provided.~~ While desirable, those subjects and activities are not applicable to dental skills, knowledge, and competence. Therefore, such courses will receive no credit toward renewal. The board may deny credit for any course.

ITEM 3. Adopt the following **new** subrule 25.9(8):

25.9(8) Delivery of volunteer dental services in accordance with paragraph 25.5(2) "i" shall result in one hour of continuing education credit for every three hours worked. Dentists and dental hygienists can report a maximum of six hours of credit per biennium of volunteer dental services. Dental assistants can report a maximum of four hours of credit per biennium of volunteer dental services. The volunteer hours must be verified by the free clinic or the organization sponsoring the event where volunteer services are provided.

ARC 5185C**ECONOMIC DEVELOPMENT AUTHORITY[261]****Notice of Intended Action****Proposing rule making related to reinvestment districts program and providing an opportunity for public comment**

The Economic Development Authority hereby proposes to amend Chapter 200, “Reinvestment Districts Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 15.106A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 15J and 2020 Iowa Acts, House File 2641.

Purpose and Summary

2020 Iowa Acts, House File 2641, updates the Reinvestment Districts Program by providing an additional \$100 million for awards made after July 1, 2020. For awards made after that date, the Act changes the calculation for the amounts deposited into each district’s fund and increases the area that may be designated as a reinvestment district to 75 acres. The Act also makes a joint entity formed by two or more cities or counties eligible for the program and allows the Economic Development Authority Board to extend the period for deposit and receipt of funds by up to five years under specified circumstances. This proposed rule making implements these changes.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa beyond the funding allocated by 2020 Iowa Acts, House File 2641.

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 Authority 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 the Authority no later than 4:30 p.m. on October 13, 2020. 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

ECONOMIC DEVELOPMENT AUTHORITY[261](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 261—200.1(15J) as follows:

261—200.1(15J) Purpose. The board is authorized by the general assembly and the governor to oversee the implementation and administration of certain provisions of ~~a new economic development program known as the Iowa reinvestment Act~~, which was enacted in 2013 Iowa Acts, House File 641 and amended by 2020 Iowa Acts, House File 2641. The purpose of this chapter is to describe the manner in which the authority’s part of the program will be administered. The program provides for as much as \$100 million in state hotel and motel and state sales tax revenues generated by new revenue-generating projects in certain districts to be “reinvested” within those districts for districts approved on or before July 1, 2018, and provides as much as \$100 million for districts approved after July 1, 2020. In general, the authority has the responsibility to evaluate projects and make funding decisions while the department of revenue has the responsibility for collecting the tax revenues used to fund projects under the program and making payments to municipalities. To the greatest extent possible, the board will fund projects in districts that are the most likely (1) to improve the quality of life of the municipality, the surrounding region, and the state as a whole; (2) to be unique to the municipality, the surrounding region, and the state as a whole; and (3) to substantially benefit the economy of the municipality, the surrounding region, and the state as a whole.

ITEM 2. Amend rule 261—200.2(15J) as follows:

261—200.2(15J) Definitions. For purposes of this chapter unless the context otherwise requires:

“*Account*” means the district account that is created within the fund for each municipality which has established a district and that holds the new tax revenues deposited by the department under the program. Moneys in each account will be remitted quarterly by the department to the municipality pursuant to the department of revenue’s rules in 701—Chapter 237.

“*Applicant*” means a municipality applying to the board and the authority for approval of a district under the program, including the preapplication process described in rule 261—200.4(15J).

“*Appurtenant structure*” means any building or other fixture on a piece of real estate other than the main building provided that such a building or fixture is permanent, is wholly or partially above grade, and will be constructed or substantially improved in conjunction with the main building. A structure is appurtenant when the structure is physically connected to a main building such that the connected structures combine to create a single, integrated facility. A structure is not physically connected if the structure has a function or purpose independent of the main building, even if the structures are in close proximity or are incidentally connected by some means such as a common wall, a sidewalk, or recreational trail.

“*Authority*” means the economic development authority created in Iowa Code section 15.105.

“*Board*” means the members of the economic development authority appointed by the governor and in whom the powers of the authority are vested pursuant to Iowa Code section 15.105.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

“*Commencement date*” means the date established for each district by the board pursuant to rule 261—200.7(15J) upon which the calculation of new state sales tax and new state hotel and motel tax revenue shall begin pursuant to rule 701—237.3(15J) and after which the department will make deposits in the fund pursuant to rule 701—237.4(15J).

“*Department*” means the department of revenue.

“*Director*” means the director of the authority.

“*District*” means the area ~~within a municipality~~ that is designated a reinvestment district under the program. For purposes of this chapter, a ~~reinvestment~~ district is designated during the application and approval process but is not created until it has both received the final approval of the board pursuant to rule 261—200.7(15J) and been established by ordinance or resolution of the municipality as described in rule 261—200.8(15J).

“*Due diligence committee*” means the due diligence committee of the board established pursuant to 261—subrule 1.3(7).

“*Fund*” means the state reinvestment district fund created in ~~2013 Iowa Acts, House File 641, section 6~~ Iowa Code section 15J.6, consisting of new tax revenues, and under the control of the department.

“*Governing body*” means the county board of supervisors, city council, or other governing body in which the legislative powers of the municipality are vested.

“*Joint board*” means a legal entity established or designated in an agreement between two or more contiguous counties or incorporated cities pursuant to Iowa Code chapter 28E.

“*Maximum benefit amount*” means the total amount of new tax revenues that may be remitted to a municipality’s reinvestment project fund and used for development in a district. The maximum benefit will be established by the board when a final application to the program is approved pursuant to rule 261—200.7(15J).

“*Municipality*” means a county, ~~or~~ an incorporated city, or a joint board.

“*New lessor*” means a lessor, as defined in Iowa Code section 423A.2, operating a business in the district that was not in operation in the area of the district before the effective date of the ordinance or resolution establishing the district, regardless of ownership. “New lessor” also includes any lessor, as defined in Iowa Code section 423A.2, operating a business in the district if the place of business for that business is the subject of a project that was approved by the board.

“*New retail establishment*” means a business operated in the district by a retailer, as defined in Iowa Code section 423.1, that was not in operation in the area of the district before the effective date of the ordinance or resolution establishing the district, regardless of ownership. “New retail establishment” also includes any business operated in the district by a retailer, as defined in Iowa Code section 423.1, if the place of business for that retail establishment is the subject of a project that was approved by the board.

“*New tax revenues*” means all state sales tax revenues and state hotel and motel tax revenues that are collected within a district by new retail establishments and new lessors, provided that such new retail establishments and lessors are included as projects in an approved district plan. New tax revenues are remitted to the department after collection by new retail establishments and new lessors and deposited by the department in a fund for use by a municipality under the program.

“*Program*” means the reinvestment district program established pursuant to this chapter.

“*Project*” means a vertical improvement constructed or substantially improved within a district using new tax revenues. “Project” does not include any of the following:

1. A building, structure, or other facility that is in whole or in part used or intended to be used to conduct gambling games under Iowa Code chapter 99F.
2. A building, structure, or other facility that is in whole or in part used or intended to be used as a hotel or motel if such hotel or motel is connected to or operated in conjunction with a building, structure, or other facility described in paragraph “1” above.

“*Retail business*” means any business engaged in the business of selling tangible personal property or taxable services at retail in this state that is obligated to collect state sales or use tax under Iowa Code chapter 423. However, for the purposes of this chapter, “retail business” does not include a new lessor or a business engaged in an activity subject to tax under Iowa Code section 423.2(3).

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

“*State hotel and motel tax*” means the state-imposed tax under Iowa Code section 423A.3.

“*State sales tax*” means the sales and services tax imposed pursuant to Iowa Code section 423.2.

“*Substantially improved*” means that the cost of the improvements to a project ~~are~~ is equal to or ~~exceed~~ exceeds 50 percent of the assessed value of the property, excluding the land, prior to such improvements.

“*Unique nature*” means a quality or qualities of the projects to be developed in a district which, when considered in the entirety, will substantially distinguish the district’s projects from other existing or proposed developments in the state. For purposes of this chapter, whether a project is of a unique nature is a subjective and contextual determination that will be made by the board. In determining whether a project is of a unique nature, the board will not necessarily require a project to be entirely without precedent or to be the only one of its kind in the state, but rather the board will evaluate whether the projects to be undertaken in a district will either (1) permanently transform the aesthetics or infrastructure of a local community for the better, including by preserving important historical structures or neighborhoods; or (2) contribute substantially more to the state’s economy or quality of life than other similar projects in the state.

“*Vertical improvement*” means a building that is wholly or partially above grade and all appurtenant structures to the building.

ITEM 3. Amend rule 261—200.3(15J) as follows:

261—200.3(15J) Program overview.

200.3(1) General. The reinvestment districts program provides for ~~as much as \$100 million in~~ new tax revenues generated by revenue-generating projects in certain districts to be “reinvested” within those districts. The program allows municipalities to designate areas ~~of up to 25 acres~~ within their corporate boundaries as reinvestment districts and to use new tax revenues collected within the district to finance the development of projects within the district. The authority and the board will take applications from municipalities for designation as a district and will consider and approve eligible applicants for funding under the program.

200.3(2) Preapplication, provisional decisions, and final approval. Each fiscal year in which funding is available, the authority will accept applications for assistance under the program. The program includes a preapplication process, a scoring process, a provisional funding decision, and a final board approval process.

200.3(3) District establishment and financing.

a. Upon final approval of a plan, a municipality ~~may adopt an ordinance to~~ shall establish a district and ~~shall~~ notify the department that new tax revenues may be deposited in a fund under the program as described in subrule 200.8(1). The collection and deposit of new tax revenues by the department begins only after final approval of the proposed district plan and the establishment of the district’s maximum benefit amount and commencement date.

b. ~~The~~ For districts established before July 1, 2020, the department will deposit in a fund 4 percent of the amount of retail sales subject to the state sales tax collected by new retail establishments within the district and 5 percent of the amount of sales subject to the state hotel and motel tax collected by new lessors within the district.

c. For districts established after July 1, 2020, the department will deposit in a fund:

(1) Four percent of the remainder of amount of sales subject to the state sales tax in the district during the quarter from new retail establishments minus the sum of the sales from the corresponding quarter of the 12-month period preceding establishment of the district, for new retail establishments identified under subparagraph 200.8(1)“c”(1) that were in operation at the end of the quarter; and

(2) Five percent of the remainder of amount of sales subject to the state hotel and motel tax in the district during the quarter from new lessors minus the sum of the sales from the corresponding quarter of the 12-month period preceding establishment of the district, for new lessors identified under subparagraph 200.8(1)“c”(2) that were in operation at the end of the quarter.

200.3(4) Duration of funding and termination of district. The department will deposit new tax revenues in the fund until the maximum benefit is reached or the district is terminated, whichever is

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

earlier. A district shall be terminated as of the date 20 years after the commencement date unless a municipality dissolves the district prior to that date or the board has approved an extension pursuant to subrule 200.10(3).

200.3(5) *Use of funds.* A municipality may use moneys remitted by the department to the municipality from its account for purposes of funding development in a district according to an approved district plan as described in ~~rule 261—200.8(15J)~~ subrule 200.8(2).

ITEM 4. Amend subrule 200.4(3) as follows:

200.4(3) *Annual filing window.* Each year ~~starting on March 1 and ending on March 15~~ that funding is available, the authority will announce an annual filing window to accept preapplications under the program provided that funding is available. The purpose of the annual filing window is to enable the competitive scoring of applications and facilitate funding decisions by the board that are within the limitations established for the program by the general assembly. A municipality interested in applying to the program must submit a preapplication during the annual filing window or wait until the next annual filing window.

ITEM 5. Amend subrules 200.4(5) and 200.4(6) as follows:

200.4(5) *Provisional funding decisions.*

a. The board, with the assistance of the authority, will evaluate the preapplications and assign them a provisional score based on the criteria described in rule 261—200.6(15J). Based on the results of the scoring, the board will make provisional funding decisions and notify applicants ~~on or before June 30 of each year in which funding is available.~~

b. A provisional funding decision represents an initial judgment by the board about the merits of a proposed district plan and is provided for the convenience of both applicants and the board for the better administration of the program. A provisional funding decision shall not be construed as binding on the board nor will the applicant be required to meet all of the details contained in the preapplication. A provisional funding decision shall not be construed as a final approval by the board. A municipality shall not adopt an ordinance or resolution establishing a district based on a provisional funding decision.

c. The final details of a proposed district plan and a final funding decision, including a maximum benefit amount and a commencement date, shall be contingent upon the receipt of a full, final, and complete application and upon final action by the board to ratify, amend, defer, or rescind its provisional funding decision as provided in rule 261—200.7(15J).

d. The department of revenue will not deposit moneys into a fund until a final application is approved by the board and an ordinance or resolution has been adopted by the municipality.

200.4(6) *Posting of preapplication and materials to Internet site.* After the board makes a provisional funding decision, the proposed district plan, along with all accompanying materials, will be posted on the authority's Internet site for public viewing within ten days of approval by the board and will be available there until the final application is submitted, or for one year.

ITEM 6. Amend subrule 200.5(1) as follows:

200.5(1) *Area suitable for development.* An applicant must be a municipality and must have an area suitable for development within the boundaries of the municipality, or, in the case of a joint board, the combined boundaries of the incorporated cities or counties that established or designated the joint board, that has been proposed for designation as a reinvestment district under the program. Only areas that meet the following requirements will be approved for designation as a reinvestment district:

a. The area must consist only of parcels of real property that the governing body of the municipality determines will be directly and substantially benefited by development in the proposed district. In order to establish that this criterion is met, a municipality should submit information such as an estimate of the expected increase in valuation or other data that lends itself to a quantitative assessment of the extent to which the real property will benefit.

b. The area must be in whole or in part either an economic development enterprise zone designated under 2014 Iowa Code chapter 15E, division XVIII, immediately prior to July 1, 2014, or an urban renewal area established pursuant to Iowa Code chapter 403. In order to establish that this criterion is met, a municipality should submit maps of the proposed area as well as maps of the existing enterprise

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

zone or urban renewal area. A municipality should also submit copies of the local ordinance or resolution establishing the enterprise zone or the urban renewal area.

c. ~~The~~ For districts approved before July 1, 2018, the area must consist of contiguous parcels and must not exceed 25 acres in total. For districts approved after July 1, 2020, the area must consist of contiguous parcels and must not exceed 75 acres in total. For purposes of this subrule, “contiguous” means parcels that are physically connected. Parcels connected by streets or other rights-of-way will be considered physically connected for purposes of this rule. In designating an area that includes a right-of-way, an applicant may include an area that is less than the full width of the right-of-way, but the applicant shall not include less than 60 feet of the right-of-way’s width.

d. For a municipality that is a city or for a city that has established or designated a joint board, the area must not include the entire incorporated area of the city.

e. The area must not be located in whole or in part within another district established under this chapter.

ITEM 7. Amend paragraph **200.5(3)“i”** as follows:

i. ~~The proposed district plan would not create an additional district within a municipality that has already established one.~~ While multiple districts within a single municipality are not prohibited under the program, ~~the program does limit~~ the size of any one district ~~to 25 acres~~ is limited by paragraph 200.5(1)“c” and disallows overlapping districts. are prohibited by paragraph 200.5(1)“e.” Therefore, the board will consider whether the approval of an additional district is appropriate given the particulars of the proposed additional district and the goals of the program. If a municipality proposes an additional district, the board, at its discretion, may accept the application and score it, or if the board determines that approval of an additional district would not serve the goals of the program, the board may reject the application without scoring it.

ITEM 8. Amend paragraph **200.5(4)“b”** as follows:

b. Information on submitting an application under the program may be obtained by contacting the economic development authority. The contact information is:

Iowa Economic Development Authority
Business Finance Team
200 East Grand Avenue
Des Moines, Iowa 50309
(515)725-3000
businessfinance@iowa.gov businessfinance@iowaeda.com
<http://iowaeconomicdevelopment.com/>

ITEM 9. Amend paragraph **200.7(1)“a”** as follows:

a. An applicant that receives a provisional funding decision must submit a final application to the board ~~before the date of the next annual filing window~~ within one year of the submission of the preapplication. An applicant that does not file a final application within that time will be scored again with all other applicants who file in the next annual filing window.

ITEM 10. Amend subrule 200.7(5) as follows:

200.7(5) Posting of application and materials to Internet site. Upon final approval by the board, the district plan, along with the municipality’s resolution and all accompanying materials, will be posted on the authority’s Internet site for public viewing within ten days of approval by the board and will be maintained there for a period of three years.

ITEM 11. Amend rule 261—200.8(15J) as follows:

261—200.8(15J) Adoption of ordinance and use of funds.

200.8(1) Adoption of ordinance establishing a district and notice to department.

a. Upon receiving approval by the board of the final application pursuant to rule 261—200.7(15J), the municipality ~~may~~ shall adopt an ordinance, or, in the case of a joint board, a resolution, establishing

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

~~the district and shall notify the director of revenue of the district's commencement date established by the board no later than 30 days after adoption of the ordinance. The~~

b. For each district approved by the board before July 1, 2018, the ordinance or resolution adopted by the municipality shall include the:

(1) The district's commencement date; and a

(2) A detailed statement of the manner in which the approved projects to be undertaken in the district will be financed, including but not limited to the financial information included in the project plan.

c. For each district approved by the board after July 1, 2020, the ordinance or resolution shall include:

(1) The district's commencement date;

(2) A detailed statement of the manner in which the approved projects to be undertaken in the district will be financed, including but not limited to the financial information included in the project plan;

(3) For each new retail establishment that was in operation before the establishment of the district, the monthly amount of sales subject to the state sales tax from the most recently available 12-month period preceding adoption of the ordinance or resolution; and

(4) For each new lessor that was in operation before the establishment of the district, the monthly amount of sales subject to the state hotel and motel tax from the most recently available 12-month period preceding adoption of the ordinance or resolution.

d. For each district approved by the board before July 1, 2018, the municipality shall notify the director of revenue of the district's commencement date established by the board no later than 30 days after adoption of the ordinance or resolution establishing the district. For each district approved by the board after July 1, 2020, the municipality shall provide a copy of the ordinance or resolution establishing the district to the director of revenue no later than 30 days after adoption of the ordinance or resolution.

200.8(2) Use of funds.

a. Following establishment of the district, a municipality may use the moneys deposited in the municipality's reinvestment project fund created pursuant to ~~2013 Iowa Acts, House File 641, section 7, Iowa Code section 15J.7~~ to fund the development of those projects included within the district plan. For purposes of this subrule, "development" means all costs reasonably related to a project provided that such costs are described in a final application approved by the board. Development costs may include project planning, professional services, land acquisition, construction, maintenance, and operational expenses. A municipality shall enter into development agreements for the expenditure of program funds and submit copies of such agreements to the authority within 30 days of execution.

b. Moneys deposited in such a fund shall only be used to fund projects approved by the board as part of a proposed district plan. Moneys deposited in such a fund may be used for projects that do not generate new tax revenues provided such projects are part of an approved plan. A municipality shall maintain records documenting the use of funds under the program and make them available to the board or the department upon request.

c. Moneys from any source deposited into the fund shall not be expended for or otherwise used in connection with a project that includes the relocation of a commercial or industrial enterprise not presently located within the municipality. For the purposes of this subrule, "relocation" means the closure or substantial reduction of an enterprise's existing operations in one area of the state and the initiation of substantially the same operation in the same county or a contiguous county in the state. However, if the initiation of operations includes an expanded scope or nature of the enterprise's existing operations, the new operation shall not be considered to be substantially the same operation. "Relocation" does not include an enterprise expanding its operations in another area of the state provided that existing operations of a similar nature are not closed or substantially reduced.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

d. Moneys from new tax revenues collected within a district and expended by a municipality under the program are subject to audit by the department of revenue or the auditor of state.

ITEM 12. Amend subrule 200.9(1) as follows:

200.9(1) Plan amendments.

a. A municipality may request an amendment to an approved district plan ~~in order~~ to add or modify projects. However, a proposed modification to a project, and each project proposed to be added, must first be approved by the board in the same manner as provided for the original plan, including updated or amended feasibility and economic impact studies as necessary. An applicant requesting a plan amendment is not required to file a preapplication pursuant to rule 261—200.4(15J) unless the amendment would increase the maximum benefit amount. A plan amendment request that does not increase the maximum benefit amount may be requested at any time.

b. There is no circumstance in which the board will approve an amendment to a district plan if that amendment would result in the extension of the final commencement date established by the board. A request to extend a district's established commencement date will be rejected.

c. If a district plan is amended to add or modify a project, the municipality shall, if necessary, amend the ordinance, ~~if necessary~~ or resolution, as applicable, to reflect any changes to the financial information required to be included under the program.

d. If, after final approval and establishment of the district, a municipality is unable to carry out development of all the projects proposed to be undertaken in a district, the municipality shall seek a modification to the plan. If a requested plan amendment would reduce capital investment in a district or remove one or more of the projects originally approved for the district, the board in its discretion may reduce, rescind, or otherwise modify the maximum benefit amount accordingly.

ITEM 13. Amend rule 261—200.10(15J) as follows:

261—200.10(15J) Cessation of deposits, district dissolution, and ~~revenue rules~~ requests for extension.

200.10(1) Cessation of deposits. As of the date 20 years after the district's commencement date, the department will cease to deposit new tax revenues into the district's account ~~within the fund~~ unless the municipality dissolves the district by ordinance or resolution prior to that date or the board has approved an extension pursuant to subrule 200.10(3). Once the maximum benefit amount approved by the board for the district has been reached, the department will cease to deposit new tax revenues into the district's account ~~within the fund~~. If a district reaches the maximum benefit amount, the department will notify the municipality within a reasonable amount of time.

200.10(2) District dissolution. If a municipality dissolves a district by ordinance or resolution prior to the expiration of the 20-year period, the municipality shall notify the director of revenue of the dissolution as soon as practicable after adoption of the ordinance or resolution, and the department shall, as of the effective date of dissolution, cease to deposit state sales tax revenues and state hotel and motel tax revenues into the district's account within the fund. If a municipality is notified that its maximum benefit amount has been reached, the municipality shall dissolve the district by ordinance or resolution as soon as practicable after notification.

200.10(3) ~~Cross reference to department rules. Requests for extension.~~ The department has adopted rules for the administration and deposit of moneys into the fund. See 701—Chapter 237. Upon request of the municipality prior to the dissolution of the district, and following a determination by the board that the amounts of new state sales tax revenue and new state hotel and motel tax revenue deposited in the municipality's reinvestment project fund are substantially lower than the maximum benefit amount, the board may extend the district's 20-year period of time for depositing and receiving revenues by up to five additional years if such an extension is in the best interest of the public.

ITEM 14. Adopt the following new rule 261—200.11(15J):

261—200.11(15J) Cross reference to department rules. The department has adopted rules for the administration and deposit of moneys into the fund. See 701—Chapter 237.

ARC 5195C**PHARMACY BOARD[657]****Notice of Intended Action****Proposing rule making related to temporary designation of 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 sections 124.201 and 124.201A and 2020 Iowa Acts, Senate File 2119.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 124.201 and 124.201A and 2020 Iowa Acts, Senate File 2119.

Purpose and Summary

The proposed amendments to rule 657—10.39(124) make temporary amendments to the Iowa Code for scheduling action in the Iowa Controlled Substances Act to match similar action taken by the federal Drug Enforcement Administration. The proposed amendments add one substance (synthetic opioid) to Schedule I and remove FDA-approved cannabidiol products containing less than 0.1 percent tetrahydrocannabinol (THC).

The proposed amendments add two subrules to current rule 657—10.39(124). The new subrules may be renumbered upon adoption as 10.39(4) and 10.39(5) to conform to the hierarchy of the new rule 657—10.39(124) proposed in **ARC 5155C**, IAB 8/26/20.

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 13, 2020. 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

PHARMACY BOARD[657](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. Adopt the following **new** subrule 10.39(8):

10.39(8) Amend Iowa Code section 124.212 as amended by 2020 Iowa Acts, Senate File 2119, by rescinding subsection 6.

ITEM 2. Adopt the following **new** subrule 10.39(9):

10.39(9) Amend Iowa Code section 124.204(9) as amended by 2020 Iowa Acts, Senate File 2119, by adding the following new paragraph:

ay. N,N-diethyl-2-(2-(4 isopropoxybenzyl)-5-nitro-1H-benzimidazol-1-yl)ethan-1-amine, its isomers, esters, ethers, salts and salts of isomers, esters and ethers (other names: isotonitazene; N,N-diethyl-2-[[4-(1-methylethoxy)phenyl]methyl]-5-nitro-1H-benzimidazole-1-ethanamine).

ARC 5194C

PHARMACY BOARD[657]**Notice of Intended Action****Proposing rule making related to radiopharmaceuticals
and providing an opportunity for public comment**

The Board of Pharmacy hereby proposes to amend Chapter 16, “Nuclear Pharmacy Practice,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed 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

The proposed amendment would include a requirement that nuclear pharmacies comply with the minimum standards identified in the United States Pharmacopeia General Chapter 825, which applies to radiopharmaceuticals and will be effective December 1, 2020.

Fiscal Impact

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

PHARMACY BOARD[657](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 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 13, 2020. 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:

Amend subrule 16.4(6) as follows:

16.4(6) *Compliance with laws.* Nuclear pharmacies shall comply with all applicable laws and regulations of federal and state agencies, including those laws and regulations governing nonradioactive drugs. Nuclear pharmacies shall comply with all standards identified in the United States Pharmacopeia General Chapter 825.

ARC 5196C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rule making related to waivers and “primary care” definition and providing an opportunity for public comment

The Public Health Department hereby proposes to amend Chapter 15, “Swimming Pools and Spas,” Chapter 70, “Lead-Based Paint Activities,” Chapter 108, “Medical Residency Training State Matching Grants Program,” Chapter 155, “Licensure Standards for Substance Use Disorder and Problem Gambling

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Treatment Programs,” and Chapter 178, “Variances and Waivers of Public Health Administrative Rules,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code chapters 17A, 125, 135 and 135I; 2020 Iowa Acts, House File 2197; and 2020 Iowa Acts, House File 2389.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 17A, 125, 135 and 135I; 2020 Iowa Acts, House File 2197; and 2020 Iowa Acts, House File 2389.

Purpose and Summary

2020 Iowa Acts, House File 2197, defines “primary care” specifically, and this definition is proposed to be incorporated within the definitions rule in Chapter 108. The proposed amendment will add the following definition: “‘Primary care’ means care that shall include psychiatry, obstetrics, gynecology, family medicine, internal medicine, and emergency medicine.”

2020 Iowa Acts, House File 2389, updates the Iowa Code sections related to granting variances or waivers to eliminate the word “variances” and updates the requirement for the reporting of waiver determinations of the Department into the Legislative Services Agency Internet site to within 60 days of the Department’s decision regarding a waiver request. The proposed amendments to Chapters 15, 70, 155 and 178 implement the Iowa Code changes.

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 the Department’s waiver provisions contained in 641—Chapter 178.

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 13, 2020. Comments should be directed to:

Susan Dixon
Department of Public Health
321 East 12th Street
Des Moines, Iowa 50319
Email: susan.dixon@idph.iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this 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.

PUBLIC HEALTH DEPARTMENT[641](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 641—15.7(135I) as follows:

641—15.7(135I) Variances Waivers. A ~~variance waiver~~ to these rules may be granted only by the department. A ~~variance waiver~~ can be granted only if sufficient information is provided to substantiate the need for and propriety of the action.

15.7(1) Requests for ~~variances waivers~~ shall be in writing and shall be sent to the local inspection agency for comment. The local inspection agency shall send the request for ~~variance waiver~~ to the department within 15 business days of its receipt.

15.7(2) The granting or denial of a ~~variance waiver~~ will take into consideration, but not be limited to, the following criteria:

a. Substantially equal protection of health and safety shall be provided by a means other than that prescribed in the particular rule, or

b. The degree of violation of the rule is sufficiently small so as not to pose a significant risk of injury to any individual, and the remedies necessary to alleviate this minor violation would incur substantial and unreasonable expense on the part of the person seeking a ~~variance waiver~~.

15.7(3) Decisions shall be issued in writing by the department and shall include the reasons for denial or granting of the ~~variance waiver~~. Copies of decisions shall be kept at the department, and a copy shall be sent to the contracting board of health.

15.7(4) The applicant for a ~~variance waiver~~ that is denied may request a review of the denial by the director of the department. The request shall be submitted in writing within 30 days of the applicant's receipt of the department's denial of a ~~variance waiver~~ request. The request for a review shall be addressed to the Iowa Department of Public Health, Office of the Director, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075. The decision of the director shall be considered the department's final agency action.

15.7(5) The applicant may petition for judicial review of the final agency action pursuant to Iowa Code chapter 17A.

ITEM 2. Amend rule 641—70.11(135) as follows:

641—70.11(135) Waivers. Rules in this chapter are not subject to waiver ~~or variance~~ pursuant to 641—Chapter 178 or any other provision of law.

ITEM 3. Adopt the following **new** definition of "Primary care" in rule **641—108.2(135)**:

"*Primary care*" means care that shall include psychiatry, obstetrics, gynecology, family medicine, internal medicine, and emergency medicine.

ITEM 4. Amend subrule 108.3(5) as follows:

108.3(5) A sponsor shall offer persons to whom a primary care, ~~including psychiatry~~, residency position is awarded, the opportunity to participate in a rural rotation to expose the resident to the rural areas of the state.

ITEM 5. Amend rule **641—155.1(125,135)**, definition of "Variance," as follows:

~~"Variance" or "waiver"~~ "*Waiver*" means action by the committee or division that suspends the requirements of a standard on a case-by-case basis in accordance with 641—Chapter 178.

ITEM 6. Amend **641—Chapter 178**, title, as follows:

~~VARIANCES AND WAIVERS OF PUBLIC HEALTH~~

ADMINISTRATIVE RULES

ITEM 7. Amend subrule 178.1(1) as follows:

178.1(1) Definition. For purposes of this chapter, “a waiver ~~or variance~~” means action by the department that suspends, in whole or in part, the requirements or provisions of a rule as applied to an identified person on the basis of the particular circumstances of that person. ~~For simplicity, the term “waiver” shall include both a “waiver” and a “variance.”~~

ITEM 8. Amend subrule 178.1(12) as follows:

178.1(12) Summary reports. ~~Semiannually, When the department grants a waiver, the department shall prepare a summary report identifying~~ submit to the designated Internet site, within 60 days of the waiver decision, the following information: identification of the rules for which a waiver has been granted or denied, the number of times a waiver was granted or denied for each rule, a citation to the statutory provisions implemented by these rules, and a general summary of the reasons justifying the department’s actions on waiver requests. If practicable, the report shall ~~detail~~ include information detailing the extent to which the granting of a waiver has affected the general applicability of the rule itself. Copies of this report shall be available for public inspection and shall be provided semiannually to the administrative rules coordinator and the administrative rules review committee.

ITEM 9. Amend rule 641—178.2(17A,135) as follows:

641—178.2(17A,135) Sample petition for waiver. A petition for waiver filed in accordance with 641—178.1(17A,135) must meet the requirements specified therein and must substantially conform to the following form:

BEFORE THE DEPARTMENT OF PUBLIC HEALTH	
Petition by (name of petitioner) for the waiver/variance waiver of (insert rule citation) relating to (insert the subject matter).	}
PETITION FOR WAIVER/VARIANCE WAIVER	

1. Provide petitioner’s (person asking for a waiver ~~or variance~~) name, address, and telephone number. Also include the name, address, and telephone number of the petitioner’s legal representative, if applicable, and a statement indicating the person to whom communications concerning the petition should be directed.
2. Describe and cite the specific rule from which a waiver is requested.
3. Describe the specific waiver requested, including the precise scope and time period for which the waiver will extend.
4. Explain the relevant facts and reasons that the petitioner believes justify a waiver. Include in your answer all of the following:
 - a. Why applying the rule would result in undue hardship to the petitioner;
 - b. Why waiving the rule would not prejudice the substantial legal rights of any person;
 - c. Whether the provisions of the rule subject to the waiver are specifically mandated by statute or another provision of law; and
 - d. How substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver is requested.
5. Provide a history of any prior contacts between the department and petitioner relating to the regulated activity, license, registration, certification or permit that would be affected by the waiver. Include a description of each affected license, registration, certification, or permit held by the petitioner, any formal charges filed, any notices of violation, any contested case hearings held, or any investigations related to the regulated activity, license, registration, certification, or permit.
6. Provide information known to the petitioner regarding the department’s action in similar circumstances.
7. Provide the name, address, and telephone number of any public agency or political subdivision that also regulates the activity in question or that might be affected by the granting of the petition.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

8. Provide the name, address, and telephone number of any person or entity that would be adversely affected by the granting of the waiver.

9. Provide the name, address, and telephone number of any person with knowledge of the relevant facts relating to the proposed waiver.

10. Provide signed releases of information authorizing persons with knowledge regarding the request to furnish the department with information relevant to the waiver.

I hereby attest to the accuracy and truthfulness of the above information.

Petitioner's signature

Date

ARC 5182C

REVENUE DEPARTMENT[701]

Notice of Intended Action

Proposing rule making related to local assessors and providing an opportunity for public comment

The Revenue Department hereby proposes to amend Chapter 7, "Practice and Procedure Before the Department of Revenue," Chapter 71, "Assessment Practices and Equalization," and Chapter 72, "Examination and Certification of Assessors and Deputy Assessors," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 421.14; 441.6(3) as enacted by 2020 Iowa Acts, House File 2641, section 106; and 441.17(2) as amended by 2020 Iowa Acts, House File 2641, section 107.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 441.6, 441.8, 441.17 and 441.41, and 2020 Iowa Acts, House File 2641, division XIII.

Purpose and Summary

This proposed rule making is intended to implement statutory changes to the regulation of local assessors. In particular, this rule making addresses changes to Iowa Code section 441.6 prohibiting an appointee selected by the conference board from assuming the office of city or county assessor until the appointment or reappointment is confirmed by the Director of Revenue. The rule making addresses the process by which the Director may confirm or reject an appointment or reappointment to the position of city or county assessor. Additionally, this rule making provides for a contested case proceeding for an aggrieved assessor or conference board upon the rejection of an appointment of an assessor by the Director.

This rule making also addresses a new statutory requirement under Iowa Code section 441.17(2) prohibiting assessors and deputy assessors from assessing a property if the assessor or deputy assessor or a member of the assessor's or deputy assessor's immediate family owns the property, has a financial interest in the property, or has a financial interest in the entity that owns the property. This rule making sets forth a reporting process for the Department to ensure that this statutory prohibition is followed and defines certain terms within the rule.

Finally, this rule making addresses a new statutory requirement that a conference board obtain city attorney or county attorney approval prior to employing special counsel to assist the city legal department or county attorney under Iowa Code section 441.41.

REVENUE DEPARTMENT[701](cont'd)

Fiscal Impact

This rule making has nominal fiscal impact to the State of Iowa. It is possible that local governments and the Department will incur nominal cost related to the new reporting requirements.

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 13, 2020. 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

A public hearing at which persons may present their views orally or in writing will be held via Google Meet at the link below. Participants may also call in via phone at the following phone number: (US) +1 316.536.0149. When prompted, enter PIN: 534 220 226#. Please mute your phones or microphones upon entering the meeting.

October 13, 2020
1:30 to 2:30 p.m.

Google Meet Location
meet.google.com/wbe-kywn-bmh

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:

REVENUE DEPARTMENT[701](cont'd)

ITEM 1. Adopt the following **new** rule 701—7.37(441):

701—7.37(441) Appeals of director's confirmation decision regarding conference board appointment or reappointment of assessor.

7.37(1) Appeal process. Any assessor or conference board wishing to contest the director's rejection of the conference board's appointment or reappointment of an assessor under 701—subrule 72.15(4) or 72.16(3) shall file an appeal, in writing, within 30 days of the director's notice of decision. Any person who does not seek an appeal within 30 days of the director's notice shall be precluded from challenging the director's decision. Appeals will be governed by the procedures set forth in this rule together with the process set forth in the following rules: rule 701—7.8(17A), excluding the first sentence of the introductory paragraph of 701—7.8(17A) and excluding subrules 7.8(1) to 7.8(7); subrules 7.8(8) and 7.8(9); subrule 7.8(10), except the clerk of the hearings section will file the protest file to the division of administrative hearings within ten days; subrules 7.9(1) and 7.9(2); rule 701—7.10(17A); paragraphs 7.11(2) "d" and "e"; subrules 7.12(2) to 7.12(4); subrules 7.12(7) and 7.12(8); rule 701—7.13(17A); rule 701—7.14(17A); rule 701—7.15(17A); rule 701—7.16(17A); subrules 7.17(1) to 7.17(7); subrule 7.17(8), except the provisions of Iowa Code section 421.60(4) and paragraph 7.17(8) "b" related to costs shall not apply; subrules 7.17(9) and 7.19(10); subrules 7.17(13) and 7.17(14); rule 701—7.18(17A); rule 701—7.19(17A); rule 701—7.20(17A); rule 701—7.21(17A); and rule 701—7.22(17A).

7.37(2) Contents. The appeal shall contain the following in separate numbered paragraphs:

- a. A statement of the department action giving rise to the appeal.
- b. The date of the department 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, if known.
- e. References to and copies of any documents or other evidence relevant to the appeal.
- f. Any other matters deemed relevant to the appeal.
- g. A statement setting forth the relief sought.
- h. The signature, mailing address, and telephone number of the person or that person's representative.

7.37(3) Burden of proof. The burden of proof is on the party challenging the director's decision under 701—subrule 72.15(4) or 72.16(3).

This rule is intended to implement Iowa Code chapter 17A.

ITEM 2. Adopt the following **new** rule 701—71.27(441):

701—71.27(441) Assessor shall not assess own property.

71.27(1) Assessor prohibited from assessing own property. An assessor or deputy assessor shall not personally assess a property if the assessor or deputy assessor or a member of the assessor's or deputy assessor's immediate family owns the property, has a financial interest in the property, or has a financial interest in the entity that owns the property. The assessing jurisdiction shall pay all costs and expenses associated with the assessment of the above property.

71.27(2) Report to the department.

a. Not later than January 1 of each year, assessors, and in the case that an assessing jurisdiction has a deputy assessor, deputy assessors, shall report to the director, using forms and procedures prescribed by the director, an inventory of all of the following real property in the assessor and deputy assessor's assessing jurisdiction:

- (1) Properties owned by the assessor;
- (2) Properties owned by a member of the assessor's immediate family;
- (3) Properties in which the assessor or a member of the assessor's immediate family has a financial interest;
- (4) Properties owned by an entity in which the assessor or a member of the assessor's immediate family has a financial interest;
- (5) Properties owned by a deputy assessor;

REVENUE DEPARTMENT[701](cont'd)

- (6) Properties owned by a member of the deputy assessor's immediate family;
- (7) Properties in which a deputy assessor or a member of a deputy assessor's immediate family has a financial interest;
- (8) Properties owned by an entity in which a deputy assessor or a member of a deputy assessor's immediate family has a financial interest.

b. Not later than March 1 of each year, assessors, and in the case that an assessing jurisdiction has a deputy assessor, deputy assessors, shall report to the director, using forms and procedures prescribed by the director, the property record card of each of the properties described in paragraph 71.27(2) "a" and additional information as required by the director. In the event a property described in paragraph 71.27(2) "a" was reported on January 1 but is no longer owned by one of the parties described in paragraph 71.27(2) "a" and none of the parties described in paragraph 71.27(2) "a" has a financial interest in the property or has a financial interest in the entity that owns the property, the assessor is not required to make the March 1 report described in this subrule for that property but shall report to the department the sale or other circumstances under which the property no longer requires reporting under this subrule.

c. In the event of an appeal to the board of review regarding the assessment of any of the properties described in paragraph 71.27(2) "a," the board of review shall report the results of the appeal to the director within 15 days following the adjournment of any regular or special session of the board of review.

71.27(3) Powers and duties of director. The director shall have and assume all of the powers and duties under Iowa Code section 421.17 in administering this rule.

71.27(4) Definitions. For purposes of this rule, the following definitions shall govern.

"Financial interest" includes but is not limited to the holding of legal title to real property or any ownership interest in an entity that holds legal title to real property. Notwithstanding the preceding sentence, ownership interest in an entity shall not be deemed a "financial interest" when a person's ownership interest equals less than 10 percent of the entity's total ownership interest.

"Immediate family" includes the spouse, children, or parents of the assessor or deputy assessor, including adoptive relationships. There is a rebuttable presumption that relatives of the assessor or deputy assessor beyond the relation of the spouse, children, or parents of the taxpayer are not within the taxpayer's immediate family.

"Personally assess" means engaging in the listing, valuation, and classification of real property.

This rule is intended to implement Iowa Code section 441.17 as amended by 2020 Iowa Acts, House File 2641.

ITEM 3. Adopt the following **new** rule 701—71.28(441):

701—71.28(441) Special counsel.

71.28(1) Before the conference board may employ special counsel to assist the city legal department or county attorney under Iowa Code section 441.41, the city legal department in the case of cities having an assessor, or county attorney in the case of counties, shall first provide written approval of the employment of special counsel for each matter in which the special counsel will be employed on a case-by-case basis.

71.28(2) In the event special counsel is employed, the assessor shall provide the department with written notice of said employment, including the matter being litigated, justification for the hiring of special counsel, and the special counsel's name and hourly rate, within ten days of the hiring. In the event that special counsel has been employed by the conference board as of [the effective date of this rule], the assessor shall provide the department with written notification of said employment, including the matter being litigated, justification for the hiring of special counsel, and the special counsel's name and hourly rate, within ten days of [the effective date of this rule] for each case. On or before January 1 of each year, the assessor shall submit to the director, on forms prescribed by the director, a report of

REVENUE DEPARTMENT[701](cont'd)

all matters litigated by special counsel in the previous 12-month period and the cost of said litigation for each case.

This rule is intended to implement Iowa Code section 441.41 as amended by 2020 Iowa Acts, House File 2641.

ITEM 4. Amend subrule 72.15(1) as follows:

72.15(1) Meeting of the conference board. At the time specified in Iowa Code section 441.6, the conference board shall hold a meeting and take action to appoint an assessor or request permission to hold a special examination. Within ten days of this meeting, the conference board shall notify the director of the appointment or request a special examination. The notice shall include a statement by the conference board stating whether there have been any charges or evidence of any misconduct, nonfeasance, malfeasance, or misfeasance against the appointee. If there have been charges or evidence of any misconduct, nonfeasance, malfeasance, or misfeasance against the appointee, the notice shall include a summary of the misconduct, nonfeasance, malfeasance, or misfeasance and any action taken regarding the misconduct, nonfeasance, malfeasance, or misfeasance. For purposes of this rule, “misconduct” means the same as defined in Iowa Code section 441.9.

ITEM 5. Adopt the following **new** subrule 72.15(4):

72.15(4) Confirmation by the director of revenue.

a. The appointee selected by the conference board shall not assume the office of city or county assessor until such appointment is confirmed by the director of revenue. In considering whether to confirm the appointment, the director shall consider any charges or evidence of misconduct, nonfeasance, malfeasance, or misfeasance by the appointee. For purposes of this rule, “misconduct” means the same as defined in Iowa Code section 441.9. Within 30 days of receiving the notice contemplated in subrule 72.15(1), the director shall notify the conference board and assessor of the acceptance or rejection of the appointment. An appeal of the director’s decision under this subrule may be made under rule 701—7.37(441).

b. Immediately following selection by the conference board, the appointee assessor shall submit information to the director as required for the director or designee to conduct a background check. The director or designee may review the department’s records and other records in considering whether to confirm the appointment of an assessor.

ITEM 6. Amend subrule 72.16(1) as follows:

72.16(1) Time for reappointment. A conference board must decide whether to reappoint an incumbent assessor at least 90 days before the expiration of the incumbent’s term. If the incumbent is not to be reappointed, the conference board shall so notify the incumbent in writing at least 90 days before the expiration of the incumbent’s term. Failure of the conference board to provide timely notification of the decision not to reappoint the assessor shall result in the assessor being reappointed. In no case may an incumbent assessor be reappointed earlier than 150 days before the expiration of the incumbent’s term. Within ten days of reappointment or notification of expiration of the incumbent’s term, the conference board shall notify the director of the reappointment or notification of expiration of the incumbent’s term. If the conference board reappoints an incumbent assessor, the notice shall include a statement by the conference board stating whether there have been any charges or evidence of any misconduct, nonfeasance, malfeasance, or misfeasance against the appointee. If there have been charges or evidence of any misconduct, nonfeasance, malfeasance, or misfeasance against the appointee, the notice shall include a summary of the misconduct, nonfeasance, malfeasance, or misfeasance and any action taken regarding the misconduct, nonfeasance, malfeasance, or misfeasance. For purposes of this rule, “misconduct” means the same as defined in Iowa Code section 441.9.

ITEM 7. Adopt the following **new** subrule 72.16(3):

72.16(3) Confirmation by the director of revenue.

a. An assessor reappointed by the conference board shall not assume the office of city or county assessor in the subsequent term until such reappointment is confirmed by the director of revenue. In considering whether to confirm the reappointment, the director shall consider any charges or evidence

REVENUE DEPARTMENT[701](cont'd)

of misconduct, nonfeasance, malfeasance, or misfeasance by the appointee. For purposes of this rule, “misconduct” means the same as defined in Iowa Code section 441.9. Within 30 days of receiving notice of reappointment by the conference board, the director shall notify the conference board and assessor of the acceptance or rejection of the reappointment. An appeal of the director’s decision under this subrule may be made under rule 701—7.37(441).

b. Immediately following selection by the conference board, the appointee assessor shall submit information to the director as required for the director or designee to conduct a background check. The director or designee may review the department’s records and other records in considering whether to confirm the reappointment of an assessor.

ITEM 8. Amend rule **701—72.16(441)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~Supplement~~ section 441.6 as amended by 2020 Iowa Acts, House File 2641, section 106, and Iowa Code section 441.8.

ARC 5181C

REVENUE DEPARTMENT[701]

Notice of Intended Action

**Proposing rule making related to adoption tax credit
and providing an opportunity for public comment**

The Revenue Department hereby proposes to amend Chapter 42, “Adjustments to Computed Tax and Tax Credits,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 421.14 and 422.12A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 422.12A.

Purpose and Summary

During the 2019 Legislative Session, Governor Reynolds signed 2019 Iowa Acts, House File 779, which provided changes to the adoption tax credit set forth in Iowa Code section 422.12A. In particular, retroactive to January 1, 2019, for tax years beginning on or after that date, these changes require taxpayers claiming the adoption tax credit to claim qualified adoption expenses paid or incurred prior to or during the tax year in which the adoption becomes final in the tax year in which the adoption becomes final. These changes also require such taxpayers with qualified adoption expenses paid or incurred after the tax year in which the adoption becomes final to claim said expenses in the tax year in which the adoption expenses are paid or incurred. Therefore, the Department proposes this rule making to implement the aforementioned changes.

Fiscal Impact

This rule making has no fiscal impact beyond that of the legislation 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 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 13, 2020. Comments should be directed to:

Ellen Reynolds
 Department of Revenue
 Hoover State Office Building
 P.O. Box 10457
 Des Moines, Iowa 50306
 Phone: 515.725.4057
 Email: ellen.reynolds@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:

Amend rule 701—42.52(422) as follows:

701—42.52(422) Adoption tax credit. Effective for tax years beginning on or after January 1, 2014, an adoption tax credit is available for individual income tax equal to the amount of qualified adoption expenses paid or incurred by a taxpayer ~~during the tax year~~ related to the adoption of a child. For an adoption finalized on or after January 1, 2014, but before January 1, 2017, the total adoption tax credit claimed for the adoption may not exceed \$2,500. For an adoption finalized on or after January 1, 2017, the total adoption tax credit claimed for the adoption may not exceed \$5,000.

42.52(1) to **42.52(3)** No change.

42.52(4) *Claiming the credit.*

a. No change.

b. *Claiming the credit in the year the adoption becomes final tax years beginning on or after January 1, 2014, but before January 1, 2019.* ~~To~~

(1) Claiming the credit in the year the adoption becomes final. For tax years beginning on or after January 1, 2014, but before January 1, 2019, to claim an adoption tax credit, a taxpayer must claim the credit for all qualified adoption expenses paid or incurred in the tax year the adoption becomes final, up to the maximum credit amount provided in paragraph 42.52(4)“a.”

EXAMPLE: Michael and Lori are married. Michael and Lori adopt a child who is permanently placed in Iowa. The adoption process begins and becomes final in 2015. Because the adoption becomes final on or after January 1, 2014, but prior to January 1, 2017, Michael and Lori qualify for a maximum credit amount of \$2,500. Michael and Lori incur and pay unreimbursed qualified adoption expenses of \$20,000 in 2015. Michael and Lori jointly file their Iowa individual income tax return in 2015. Michael and Lori may claim an Iowa adoption tax credit of \$2,500 in 2015.

REVENUE DEPARTMENT[701](cont'd)

e. (2) ~~Claiming the credit in years other than the year the adoption becomes final.~~ If Claiming the credit in years other than the year the adoption becomes final. For tax years beginning on or after January 1, 2014, but before January 1, 2019, if a taxpayer cannot claim the maximum credit amount provided in paragraph 42.52(4)“a” for the year the adoption becomes final, the taxpayer may amend a prior year’s return to claim any remaining credit for expenses paid in that prior year, or the taxpayer may claim any remaining credit on a subsequent year’s return for expenses paid in that subsequent year. If a qualified adoption expense was incurred in one tax year and paid in another tax year, the taxpayer may only claim a credit for that expense in one year. The total adoption tax credit claimed for all years combined may not exceed the maximum credit amount per adoption provided in paragraph 42.52(4)“a.” An adjustment to a prior’s year return is subject to the limitations in rule 701—40.20(422).

EXAMPLE: Erin adopts a child as a single parent. The child is permanently placed in Iowa. The adoption process begins in 2016 and becomes final in 2017. Because the adoption becomes final on or after January 1, 2017, Erin qualifies for a maximum credit amount of \$5,000. Erin pays and incurs unreimbursed qualified adoption expenses of \$20,000 in 2016 and \$1,000 in 2017. In tax year 2017, Erin may claim an Iowa adoption tax credit equal to the \$1,000 in unreimbursed qualified adoption expenses paid and incurred in 2017. After claiming the credit for tax year 2017, Erin may amend the 2016 return to claim the remaining \$4,000 credit for unreimbursed qualified adoption expenses paid and incurred in 2016.

c. Claiming the credit in tax years beginning on or after January 1, 2019.

(1) Claiming the credit in the year the adoption becomes final. For tax years beginning on or after January 1, 2019, to claim an adoption tax credit, a taxpayer must claim the credit in the tax year the adoption is finalized for all qualified adoption expenses paid or incurred prior to or in the tax year the adoption becomes final, up to the maximum credit amount of \$5,000. A taxpayer shall not amend a prior year return in an attempt to claim the credit for unreimbursed qualified adoption expenses paid or incurred prior to the tax year in which the adoption becomes final.

EXAMPLE: Y and Z are married. Y and Z adopt a child who is permanently placed in Iowa. The adoption process begins in 2016 and becomes final in 2019. Because the adoption becomes final on or after January 1, 2017, Y and Z qualify for a maximum credit amount of \$5,000. Additionally, because the adoption becomes final on or after January 1, 2019, Y and Z may claim an Iowa adoption tax credit for unreimbursed qualified adoption expenses paid or incurred prior to or in the year the adoption becomes final. Y and Z incur and pay unreimbursed qualified adoption expenses of \$5,000 in 2016, \$10,000 in 2017, \$2,000 in 2018, and \$2,000 in 2019. Y and Z jointly file their Iowa individual income tax return in 2019. Y and Z may claim an Iowa adoption tax credit of \$5,000 on their 2019 Iowa income tax return. Y and Z are not allowed to amend a prior year return in an attempt to claim the credit for unreimbursed qualified adoption expenses paid or incurred prior to the tax year in which the adoption became final.

(2) Claiming the credit in years after the adoption becomes final. For tax years beginning on or after January 1, 2019, if a taxpayer cannot claim the maximum credit amount of \$5,000 for the year the adoption becomes final, the taxpayer may claim an adoption tax credit for any unreimbursed qualified adoption expenses paid or incurred after the tax year in which the adoption becomes final in the tax year in which unreimbursed qualified adoption expenses are paid or incurred.

EXAMPLE: W and X are married. W and X adopt a child who is permanently placed in Iowa. The adoption process begins in 2018 and becomes final in 2019. Because the adoption becomes final on or after January 1, 2017, W and X qualify for a maximum credit amount of \$5,000. W and X incur and pay unreimbursed qualified adoption expenses of \$1,000 in 2018, and \$1,000 in 2019. W and X jointly file their Iowa individual income tax return in 2019. W and X may claim the Iowa adoption tax credit in 2019 in the amount of \$2,000. In 2020, W and X incur and pay \$5,000 in unreimbursed qualified adoption expenses in connection to the adoption finalized in 2019. W and X may claim the remaining \$3,000 credit on their jointly filed Iowa individual income tax return for 2020 for unreimbursed qualified adoption expenses incurred and paid in 2020. W and X shall not amend their 2019 return to reflect the additional unreimbursed qualified adoption expenses from 2020.

REVENUE DEPARTMENT[701](cont'd)

d. to f. No change.

This rule is intended to implement Iowa Code section 422.12A as amended by 2016 Iowa Acts, House File 2468; and by 2017 Iowa Acts, Senate File 433; and 2019 Iowa Acts, House File 779.

ARC 5183C

REVENUE DEPARTMENT[701]

Notice of Intended Action

**Proposing rule making related to statement furnishment deadlines
and providing an opportunity for public comment**

The Revenue Department hereby proposes to amend Chapter 46, “Withholding,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 421.14, 422.16 and 422.68.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 422.16.

Purpose and Summary

In the July 31, 2019, Iowa Administrative Bulletin, the Department proposed a rule making (i.e., Notice of Intended Action, **ARC 4561C**) to amend Chapter 46. That rule making is related to new electronic filing requirements for W-2 forms and 1099 forms and was subsequently adopted and filed and published in the Iowa Administrative Bulletin (**ARC 4678C**, IAB 9/25/20, effective 10/30/19). One purpose of that rule making was to move the annual deadline for filing Verified Summary of Payments Reports, W-2 forms, and 1099 forms with the Department from January 31 to February 15. It was not the intent of the Department to attempt to disregard the annual January 31 deadline by which a withholding agent or employer must furnish statements to employees, nonresidents, or other persons, as described in Iowa Code section 422.16(7)“a.” However, that rule making’s amendment to subparagraph 46.3(3)“d”(3) may have given that appearance.

This proposed rule making clarifies that the annual deadline under Iowa Code section 422.16(7)“a” remains January 31. This rule making also corrects a typo in subparagraph 46.3(3)“d”(2) and updates subparagraph 46.3(3)“e”(1) by removing a reference to a rescinded subrule, replacing references to certain credits, and making a stylistic change. Lastly, this rule making clarifies that the withholding agents’ electronic filing requirement applies for all 1099 forms and W-2 forms for persons from whom Iowa income tax was withheld.

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 13, 2020. Comments should be directed to:

Clara Wulfsen
Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306
Phone: 515.322.2900
Email: clara.wulfsen@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:

Amend paragraphs **46.3(3)“d”** to **“g”** as follows:

d. Reports for employee.

(1) General rule. Every employer required to deduct and withhold tax from compensation of an employee must furnish to each employee with respect to the compensation paid in Iowa by such employer during the calendar year, a statement containing the following information: the name, address, and federal employer identification number of the employer; the name, address, and social security number of the employee; the total amount of compensation paid in Iowa; and the total amount deducted and withheld as tax under subrule 46.1(1).

(2) Form of statement. The information required to be furnished to an employee 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.” Any reproduction, modification or substitution for a combined W-2 by the employer must be approved by the department. Employers should keep copies of the combined W-2 for four years from the end of the year for which the combined W-2 applies.

(3) Time for furnishing statement. Each statement required by paragraph “d” to be furnished for a calendar year and each corrected statement required for any prior year shall be furnished to the employee on or before ~~February 15~~ 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 provisions relating to the filing of copies of the combined W-2 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.

REVENUE DEPARTMENT[701](cont'd)

(4) Corrections. An employer must furnish a corrected combined W-2 to an employee if, after the original statement has been furnished, an error is discovered in either the amount of compensation 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 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.

(5) Undelivered combined W-2. Any employee's copy of the combined W-2 which, after reasonable effort, cannot be delivered to an employee shall be transmitted to the department with a letter of explanation.

(6) Lost or destroyed. If the combined W-2 is lost or destroyed, the employer shall furnish a substitute copy to the employee. The copy shall be clearly marked "Reissued by Employer."

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), 46.1(3), 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 ~~housing assistance~~ 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-2s~~ W-2 forms and ~~1099s~~ 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 ~~Verified Summary of Payments Report~~ 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. W-2 forms.

(1) For tax year 2019 and all subsequent tax years, all withholding agents are required to electronically file W-2 forms for employees from whom Iowa income tax was withheld with the department of revenue 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).

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).

ARC 5184C**REVENUE DEPARTMENT[701]****Notice of Intended Action****Proposing rule making related to declaration of value forms
and providing an opportunity for public comment**

The Revenue Department hereby proposes to amend Chapter 79, “Real Estate Transfer Tax and Declarations of Value,” 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 section 428A.1.

Purpose and Summary

This proposed rule making makes an amendment related to the transmittal of declaration of value forms following an amendment to Iowa Code section 428A.1 made in 2020 Iowa Acts, House File 2641.

Fiscal Impact

This rule making has nominal fiscal impact to the State of Iowa. The Department will incur nominal cost in implementing these changes.

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 13, 2020. Comments should be directed to:

Nick Behlke
Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306
Phone: 515.725.9948
Email: nick.behlke@iowa.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held via Google Meet at the link below. Participants may also call in via phone at the following phone number: (US) +1 402.821.1140. When prompted, enter PIN: 395 454 339#. Please mute your phones or microphones upon entering the meeting.

REVENUE DEPARTMENT[701](cont'd)

October 13, 2020
2:30 to 3:30 p.m.

Google Meet Location
meet.google.com/vmf-iced-vma

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:

Amend subrule 79.3(3) as follows:

79.3(3) Transmittal of forms. Real estate transfer-declaration of value forms filed with the county recorder shall be transmitted promptly to the appropriate assessor department. ~~City and county assessors shall transmit to the department of revenue within 60 days of the end of each calendar quarter all real estate transfer-declaration of value forms received from the county recorder during that calendar quarter. Under no circumstances shall the assessor retain any real estate transfer-declaration of value form longer than designated in this subrule. Nothing in this subrule shall be construed to relieve, limit, or prohibit city and county assessors from completing the requirements set forth in Iowa Code sections 421.17(6) “a” and 421.17(6) “b.”~~

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 2.50%.

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.

TREASURER OF STATE(cont'd)

New official state interest rates, effective September 9, 2020, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

7-31 days	Minimum .05%
32-89 days	Minimum .05%
90-179 days	Minimum .05%
180-364 days	Minimum .05%
One year to 397 days	Minimum .05%
More than 397 days	Minimum .05%

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.

ARC 5180C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rule making related to waivers and providing an opportunity for public comment

The Department of Transportation hereby proposes to amend Chapter 11, “Waiver of Rules,” and Chapter 112, “Primary Road Access Control,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 307.12 and Executive Order 11 dated September 14, 1999.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 17A.9A as amended by 2020 Iowa Acts, House File 2389, section 10.

Purpose and Summary

The proposed amendments update Chapters 11 and 112 to remove the word “variance” when used with the word “waiver” in accordance with the same change included in 2020 Iowa Acts, House File 2389, section 10.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

TRANSPORTATION DEPARTMENT[761](cont'd)

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 13, 2020. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Strategic Communications and Policy Bureau
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 15, 2020, via conference call from 9 to 10 a.m. Persons who wish to participate in the conference call should contact Tracy George before 4:30 p.m. on October 13, 2020, 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, the Department's rules administrator, 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).

The following rule-making actions are proposed:

ITEM 1. Amend subrule 11.1(1) as follows:

11.1(1) The purpose of this chapter is to establish a general process for granting waivers ~~or variances~~ ~~(hereinafter referred to as waivers)~~ from the requirements of department rules. A waiver is an agency action which suspends in whole or in part the requirements or provisions of a rule as applied to an identified person on the basis of the particular circumstances of that person.

ITEM 2. Amend paragraph **112.12(2)“c”** as follows:

c. A predetermined access location that does not meet required spacing standards is not a waiver ~~or variance~~ of these rules if justification for the access location is based on one or more of the considerations listed in paragraph “a” of this subrule. The final access review letter must include this justification.

ARC 5179C**TRANSPORTATION DEPARTMENT[761]****Notice of Intended Action****Proposing rule making related to indicators for autism and hearing impairment and providing an opportunity for public comment**

The Department of Transportation hereby proposes to amend Chapter 605, “License Issuance,” and Chapter 630, “Nonoperator’s Identification,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 307.12, 321.189 and 321.190.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 321.189 as amended by 2020 Iowa Acts, House File 2372, section 1; Iowa Code section 321.190 as amended by 2020 Iowa Acts, House File 2372, section 2; and 2020 Iowa Acts, House File 2585, section 35.

Purpose and Summary

The proposed amendments to Chapters 605 and 630 conform the rules with 2020 Iowa Acts, House File 2372, sections 1 and 2, and 2020 Iowa Acts, House File 2585, section 35. House File 2372 amended Iowa Code sections 321.189 and 321.190 to allow a person to add an indicator to the person’s driver’s license or nonoperator’s identification card indicating the person’s autism status. House File 2585 directed all administrative rules to be updated to reflect the term “hard of hearing” rather than the term “hearing impaired.”

The autism indicator is a new indicator that can be added to the person’s driver’s license or nonoperator’s identification card at the person’s request. The hard-of-hearing indicator is not new but is being renamed to reflect current terminology.

The proposed amendments also adopt a technical change to reflect current Department practice that one payment method may be used to pay multiple fees associated with a driver’s license transaction.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa beyond the impact estimated by the Legislative Services Agency for 2020 Iowa Acts, House File 2372, sections 1 and 2, and 2020 Iowa Acts, House File 2585, section 35.

Jobs Impact

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

Waivers

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

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 13, 2020. Comments should be directed to:

TRANSPORTATION DEPARTMENT[761](cont'd)

Tracy George
 Department of Transportation
 DOT Rules Administrator, Strategic Communications and Policy Bureau
 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 15, 2020, via conference call from 10 to 11 a.m. Persons who wish to participate in the conference call should contact Tracy George before 4:30 p.m. on October 13, 2020, 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, the Department's rules administrator, 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).

The following rule-making actions are proposed:

ITEM 1. Amend subrule 605.5(7) as follows:

605.5(7) *Voluntary markings.* Upon the request of the licensee, the department shall indicate on the driver's license any of the following:

- a. to c. No change.
- d. That the licensee is hard of hearing ~~impaired~~ or deaf.
- e. No change.
- f. That the licensee has autism spectrum disorder.

ITEM 2. Amend rule ~~761—605.5(321)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~sections~~ section 142C.3 and section 321.189, as amended by 2020 Iowa Acts, House File 2372, section 1; the REAL ID Act of 2005 (49 U.S.C. Section 30301 note), ~~and~~; 6 CFR Part 37; and 2020 Iowa Acts, House File 2585, section 35.

ITEM 3. Amend rule ~~761—605.10(321)~~ as follows:

~~761—605.10(321) Fees for driver's licenses.~~ Fees for driver's licenses are specified in Iowa Code section 321.191. A license fee may be paid by cash, check, credit card, debit card or money order. ~~If payment is by check, the following requirements apply:~~

~~605.10(1) The~~ If the payment is by check, the check shall be for the exact amount of the fee and shall be payable to: Treasurer, State of Iowa. An exception may be made when a traveler's check is presented.

~~605.10(2) One check payment method~~ may be used to pay fees for several persons, such as members of a family or employees of a business firm. One ~~check payment method~~ may pay all fees involved, such as the license fee and the reinstatement fee.

This rule is intended to implement Iowa Code section 321.191.

TRANSPORTATION DEPARTMENT[761](cont'd)

ITEM 4. Amend subrule 630.2(4) as follows:

630.2(4) Upon the request of the cardholder, the department shall indicate on the nonoperator's identification card any of the following:

- a. to c. No change.
- d. That the cardholder is hard of hearing ~~impaired~~ or deaf.
- e. No change.
- f. That the cardholder has autism spectrum disorder.

ITEM 5. Amend **761—Chapter 630**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 321.13, 321.189, 321.190 as amended by 2020 Iowa Acts, House File 2372, section 2, 321.195, 321.216, 321.216A, 321.216B and 321.216C; the REAL ID Act of 2005 (49 U.S.C. Section 30301 note), ~~and~~ 6 CFR Part 37; and 2020 Iowa Acts, House File 2585, section 35.

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, 2019 — October 31, 2019	3.75%
November 1, 2019 — November 30, 2019	3.75%
December 1, 2019 — December 31, 2019	3.75%
January 1, 2020 — January 31, 2020	3.75%
February 1, 2020 — February 29, 2020	3.50%
March 1, 2020 — March 31, 2020	3.75%
April 1, 2020 — April 30, 2020	3.50%
May 1, 2020 — May 31, 2020	2.75%
June 1, 2020 — June 30, 2020	2.75%
July 1, 2020 — July 31, 2020	2.75%
August 1, 2020 — August 31, 2020	2.75%
September 1, 2020 — September 30, 2020	2.50%
October 1, 2020 — October 31, 2020	2.75%

ARC 5191C

ALCOHOLIC BEVERAGES DIVISION[185]

Adopted and Filed

Rule making related to the filling and sale of beer and wine “growlers”

The Alcoholic Beverages Division hereby amends Chapter 4, “Liquor Licenses—Beer Permits—Wine Permits,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 123.10 and 2020 Iowa Acts, House File 2540.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 123.123, 123.131, 123.132, 123.172 and 123.178 to 123.178B and 2020 Iowa Acts, House File 2540.

Purpose and Summary

This rule making is required due to enactment of 2020 Iowa Acts, House File 2540. This rule making adopts a new rule establishing how a container other than the original container, otherwise known as a “growler,” shall be filled with wine or native wine, shall be properly sealed so as to not be considered an open container under Iowa Code sections 321.284 and 321.284A, and shall be sold by class “C” liquor licensees; class “B,” class “B” native, and class “C” native wine permittees; and the licensee’s or permittee’s employees.

This rule making also amends rule 185—4.6(123), which establishes the requirements for the filling and sale of beer growlers, to remove the restriction that beer growlers must be sold via an in-person sale by class “B,” class “C,” and special class “C” liquor control licensees; class “B” beer permittees; and the licensee’s or permittee’s employees. Other nonsubstantive changes to the rule are also adopted.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 29, 2020, as **ARC 5111C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Administrator, with the approval of the Alcoholic Beverages Commission, on September 2, 2020.

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 Division for a waiver of the discretionary provisions, if any, pursuant to 185—Chapter 19.

ALCOHOLIC BEVERAGES DIVISION[185](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 28, 2020.

The following rule-making actions are adopted:

ITEM 1. Amend rule 185—4.6(123) as follows:

185—4.6(123) Filling and selling of beer in a container other than the original container. ~~Liquor Class “B,” class “C,” and special class “C” liquor control license holders licensees, class “B” and class “C” beer permit holders permittees, and their the licensee’s or permittee’s employees may fill, refill, and sell beer in a container other than the original container, otherwise known as a growler, subject to the requirements and restrictions provided in Iowa Code sections section 123.131 and as amended by 2020 Iowa Acts, House File 2540, section 14; Iowa Code section 123.132; and in this rule.~~

4.6(1) Definitions.

“Beer,” for the ~~purpose~~ purposes of this rule, means “beer” as defined in Iowa Code section 123.3(7) and “high alcoholic content beer” as defined in Iowa Code section ~~123.3(19)~~ 123.3(22).

“Growler,” for the ~~purpose~~ purposes of this rule, means any fillable and sealable glass, ceramic, plastic, aluminum, or stainless steel container designed to hold ~~only~~ beer or high alcoholic content beer.

“Original container,” for the ~~purpose~~ purposes of this rule, means a vessel containing beer that has been lawfully obtained and has been securely capped, sealed, or corked at the location of manufacture. For special class “A” beer permit holders, an “original container” includes a tank used for storing and serving beer.

~~4.6(2) Sales criteria and restrictions. All sales made pursuant to this rule shall be made in person. Beer packaged and sold pursuant to this rule shall not be delivered or direct shipped to consumers.~~

4.6(3) 4.6(2) Filling and refilling requirements.

- a. A growler shall have the capacity to hold no more than 72 ounces.
- b. A growler shall be filled or refilled only by the licensee or permittee or the licensee’s or permittee’s employees who are 18 years of age or older.
- c. A growler shall be filled or refilled only on demand by a consumer at the time of the ~~in-person~~ sale.
- d. A growler shall be filled or refilled only with beer from the original container procured from a ~~duly licensed wholesaler~~ class “A” beer permittee unless the beer being used to fill or refill a growler on the premises of a special class “A” beer permit holder was manufactured by that special class “A” beer permit holder on the permitted premises.
- e. A retailer may exchange a growler to be filled or refilled, ~~provided the exchange occurs at the time of the in-person sale.~~
- f. The filling or refilling of a growler shall at all times be conducted in compliance with applicable state and federal food safety statutes and regulations.

~~4.6(4) 4.6(3) Sealing requirements.~~ A filled or refilled growler shall be securely sealed at the time of the sale by the licensee or permittee or the licensee’s or permittee’s employees in the following manner:

- a. to d. No change.

4.6(5) 4.6(4) Restrictions.

~~a. Beer shall only be consumed on the premises of a class “C” beer permit holder for a tasting in accordance with rule 185—16.7(123).~~

- ~~b. a.~~ A growler shall not be filled in advance of a sale.

ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

- ~~e.~~ b. A growler filled pursuant to this rule shall not be delivered or direct-shipped to a consumer.
- ~~d.~~ c. A growler filled pursuant to this rule shall not be sold or otherwise distributed to a retailer.
- ~~e.~~ d. A licensee or permittee or a licensee's or permittee's employees shall not allow a consumer to fill or refill a growler.

f. e. The filling, refilling and selling of a growler shall be limited to the hours in which beer alcoholic beverages may be legally sold.

~~g.~~ f. A filled or refilled growler shall not be sold to any consumer who is under legal age, intoxicated, or simulating intoxication.

~~h.~~ g. An original container shall only be opened on the premises of a class "C" beer permit holder permittee for the limited purposes of filling or refilling a growler as provided in this rule, or for a tasting in accordance with rule 185—16.7(123).

h. A class "C" beer permittee shall only fill a growler at the time of an in-person sale.

~~4.6(6)~~ **4.6(5)** *Violations.* Failure to comply with the requirements and restrictions of this rule shall subject the licensee or permittee to the penalty provisions provided in Iowa Code chapter 123.

This rule is intended to implement Iowa Code sections 123.123, 123.131, and 123.132.

ITEM 2. Adopt the following new rule 185—4.11(123):

185—4.11(123) Filling and selling of wine and native wine in a container other than the original container. Class "C" liquor control licensees; class "B," class "B" native, and class "C" native wine permittees; and the licensee's or permittee's employees may fill, refill, and sell wine or native wine in a container other than the original container, otherwise known as a growler, subject to the requirements and restrictions provided in Iowa Code sections 123.178, 123.178A, and 123.178B as amended by 2020 Iowa Acts, House File 2540, sections 4, 5, 6, 7, 8, and 9, and in this rule.

4.11(1) Definitions.

"Growler," for the purposes of this rule, means any fillable and sealable glass, ceramic, plastic, aluminum, or stainless steel container designed to hold wine or native wine.

"Native wine," for the purposes of this rule, means wine manufactured in Iowa by fermentation of fruit, vegetables, dandelions, clover, honey, or any combination of these ingredients by a class "A" wine permittee.

"Original container," for the purposes of this rule, means a vessel containing wine or native wine that has been lawfully obtained and has been securely capped, sealed, or corked at the location of manufacture.

"Wine," for the purposes of this rule, means "wine" as defined in Iowa Code section 123.3(54).

4.11(2) Filling and refilling requirements.

- a. A growler shall have the capacity to hold no more than 72 ounces.
- b. A growler shall be filled or refilled only by the licensee or permittee or the licensee's or permittee's employees who are 18 years of age or older.
- c. A growler shall be filled or refilled only on demand by a consumer at the time of the sale.
- d. A growler shall be filled or refilled only with wine or native wine from the original container procured from a class "A" wine permittee.
- e. Class "B" native and class "C" native wine permittees shall fill a growler with only native wine.
- f. A retailer may exchange a growler to be filled or refilled.
- g. The filling or refilling of a growler shall at all times be conducted in compliance with applicable state and federal food safety statutes and regulations.

4.11(3) Sealing requirements. A filled or refilled growler shall be securely sealed at the time of the sale by the licensee or permittee or the licensee's or permittee's employees in the following manner:

- a. A growler shall bear a cap, lid, stopper, or plug.
- b. A plastic heat shrink wrap band, strip, or sleeve shall extend around the cap or lid or over the stopper or plug to form a seal that must be broken upon the opening of the growler. A lid permanently affixed with a can seamer shall not require a plastic heat shrink wrap band, strip, or sleeve.
- c. The heat shrink wrap seal shall be so secure that it is visibly apparent when the seal on a growler has been tampered with or a sealed growler has otherwise been reopened.

ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

d. A growler shall not be deemed an open container, subject to the requirements of Iowa Code sections 321.284 and 321.284A, provided the sealed growler is unopened and the seal has not been tampered with and the contents of the growler have not been partially removed.

4.11(4) Restrictions.

a. A growler shall not be filled in advance of a sale.
b. A growler filled pursuant to this rule shall not be delivered or direct-shipped to a consumer.
c. A growler filled pursuant to this rule shall not be sold or otherwise distributed to a retailer.
d. A licensee or permittee or a licensee's or permittee's employees shall not allow a consumer to fill or refill a growler.

e. The filling, refilling, and selling of a growler shall be limited to the hours in which alcoholic beverages may be legally sold.

f. A filled or refilled growler shall not be sold to any consumer who is under legal age, intoxicated, or simulating intoxication.

g. An original container shall only be opened on the premises of a class "B" or class "B" native wine permittee for the limited purposes of filling or refilling a growler as provided in this rule, or for a tasting in accordance with rule 185—16.7(123).

4.11(5) Violations. Failure to comply with the requirements and restrictions of this rule shall subject the licensee or permittee to the penalty provisions provided in Iowa Code chapter 123.

This rule is intended to implement Iowa Code sections 123.172, 123.178, 123.178A, and 123.178B.

[Filed 9/3/20, effective 10/28/20]

[Published 9/23/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/23/20.

ARC 5192C

ALCOHOLIC BEVERAGES DIVISION[185]

Adopted and Filed

Rule making related to Iowa Code reference changes

The Alcoholic Beverages Division hereby amends Chapter 9, "Personal Importation of Alcoholic Liquor, Wine, and Beer," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 123.10.

Purpose and Summary

These amendments make nonsubstantive changes to Chapter 9 due to the enactment of 2019 Iowa Acts, Senate File 618. The amendments remove references to 2018 Iowa Acts, Senate File 2347, and insert references to the applicable Iowa Code sections. These amendments also update the chapter's statutory implementation references.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 15, 2020, as **ARC 5078C**. No public comments were received. No changes from the Notice have been made.

ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

Adoption of Rule Making

This rule making was adopted by the Administrator, with the approval of the Alcoholic Beverages Commission, on September 2, 2020.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on October 28, 2020.

The following rule-making actions are adopted:

ITEM 1. Amend rule 185—9.1(123) as follows:

185—9.1(123) Tax liability. The division makes no judgment or decision regarding any tax liability resulting from the personal importation of alcoholic liquor, wine, or beer as provided in Iowa Code section 123.10₂, as amended by 2018 Iowa Acts, Senate File 2347, section 1; Iowa Code section 123.22₂, as amended by 2018 Iowa Acts, Senate File 2347, section 2; Iowa Code section 123.171₂, as amended by 2018 Iowa Acts, Senate File 2347, section 5; or 2018 Iowa Acts, Senate File 2347, section 4 123.122, as applicable.

ITEM 2. Amend rule 185—9.2(123), introductory paragraph, as follows:

185—9.2(123) Personal importation in excess of the amounts provided—waiver. The administrator may provide for the issuance of a waiver for an individual of legal age desiring to import alcoholic liquor, wine, or beer in excess of the amounts provided in Iowa Code section 123.22₂, as amended by 2018 Iowa Acts, Senate File 2347, section 2; Iowa Code section 123.171₂, as amended by 2018 Iowa Acts, Senate File 2347, section 5; or 2018 Iowa Acts, Senate File 2347, section 4 123.122. The decision on whether the circumstances justify the issuance of a waiver shall be made at the discretion of the administrator upon consideration of all the relevant factors.

ITEM 3. Amend subrule 9.2(3) as follows:

9.2(3) Request. All requests for a waiver to import alcoholic liquor, wine, or beer in excess of the amount provided in Iowa Code section 123.22₂, as amended by 2018 Iowa Acts, Senate File 2347, section 2; Iowa Code section 123.171₂, as amended by 2018 Iowa Acts, Senate File 2347, section 5; or 2018

ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

~~Iowa Acts, Senate File 2347, section 4, 123.122~~ shall be submitted in writing by completing a request for import authorization form and returning it to the division, as instructed.

ITEM 4. Amend subrule 9.2(9) as follows:

9.2(9) Ruling. A letter granting or denying a request for a waiver to import alcoholic liquor, wine, or beer in excess of the amount provided in Iowa Code section 123.22, ~~as amended by 2018 Iowa Acts, Senate File 2347, section 2; Iowa Code section 123.171, as amended by 2018 Iowa Acts, Senate File 2347, section 5; or 2018 Iowa Acts, Senate File 2347, section 4, 123.122~~ shall be in writing and shall contain a description of the precise scope and duration of the waiver if one is issued.

ITEM 5. Amend subrule 9.2(13) as follows:

9.2(13) Violations. Violation of a condition in a waiver is equivalent to a violation of Iowa Code section 123.10, ~~as amended by 2018 Iowa Acts, Senate File 2347, section 1; Iowa Code section 123.22, as amended by 2018 Iowa Acts, Senate File 2347, section 2; Iowa Code section 123.171, as amended by 2018 Iowa Acts, Senate File 2347, section 5; or 2018 Iowa Acts, Senate File 2347, section 4, 123.122,~~ as applicable. The recipient of a waiver under this rule who violates a condition of the waiver may be subject to the same remedies or penalties as a person who violates the applicable Iowa Code ~~or Iowa Acts~~ section.

ITEM 6. Amend **185—Chapter 9**, implementation sentence, as follows:

These rules are intended to implement ~~2018 Iowa Acts, Senate File 2347, section 4, and Iowa Code sections 123.10, 123.22, 123.59, 123.122, and 123.171 as amended by 2018 Iowa Acts, Senate File 2347.~~

[Filed 9/3/20, effective 10/28/20]

[Published 9/23/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/23/20.

ARC 5186C

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

Adopted and Filed

Rule making related to recovery and mitigation plans

The Homeland Security and Emergency Management Department hereby amends Chapter 7, "Local Emergency Management," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code chapter 17A and section 29C.9(8).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 29C.6 and 2020 Iowa Acts, Senate File 2188.

Purpose and Summary

This amendment seeks to alleviate a burdensome local requirement to update recovery and mitigation plans in order for local government to receive federal disaster or hazard mitigation funding.

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605](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 July 15, 2020, as **ARC 5085C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Director on September 1, 2020.

Fiscal Impact

The fiscal impact to the State is determined upon the number of federally approved applications.

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.

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 28, 2020.

The following rule-making action is adopted:

Amend paragraph **7.3(4)“d”** as follows:

d. Planning.

(1) and (2) No change.

(3) Plans shall be regularly reviewed and amended as appropriate in accordance with a five-year schedule established by the commission, which shall include, at a minimum:

1. ~~A~~, a complete review, and amendment as appropriate, at a minimum of every five years. However, a review, and amendment as appropriate, of the hazardous materials portion and of a minimum of 20 percent of the remaining annexes or portions of the plan shall be conducted on a yearly basis. The complete operations plan must be reviewed entirely, and amended as appropriate, every five years. A copy of the portions of the plan that are reviewed, regardless of amendment, must be certified and submitted to the department for approval by August 1 of each year.

~~2. Recovery and mitigation plans must also be reviewed, and amended as appropriate, certified and submitted to the department for approval within 180 days of the formal closing of the disaster incident period for a presidential declaration for major disaster.~~

(4) to (10) No change.

(11) Iowa Code section 29C.6 provides that state participation in funding financial assistance in a presidentially declared disaster is contingent upon the commission's having on file a state-approved, comprehensive emergency plan as provided in Iowa Code ~~subsection~~ section 29C.9(8). ~~Plans must be received by the department within 180 days of the formal closing of the disaster incident period for~~

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

~~a presidential declaration for major disaster for the affected jurisdiction and must be approved by the department within 240 days of the formal closing of the disaster incident period for public or private nonprofit entities within the county to be eligible to receive state financial assistance.~~

(12) Iowa Code section 29C.7 as enacted by 2020 Iowa Acts, Senate File 2188, provides that state participation in funding financial assistance in a non-presidentially declared disaster is contingent upon the commission's having on file a state-approved, comprehensive emergency plan as provided in Iowa Code section 29C.9(8).

[Filed 9/1/20, effective 10/28/20]

[Published 9/23/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/23/20.

ARC 5187C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Rule making related to licensing sanctions

The Inspections and Appeals Department hereby amends Chapter 8, "Licensing Actions for Nonpayment of Child Support and Student Loan Default/Noncompliance with Agreement for Payment of Obligation," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 10A.104.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 272C.4(10).

Purpose and Summary

These amendments implement changes made to Iowa Code section 272C.4(10) resulting from the enactment of 2019 Iowa Acts, Senate File 304. The legislation required the Department to adopt rules to prohibit the suspension or revocation of a license issued to a person who is in default or is delinquent on repayment or a service obligation under federal or state postsecondary educational loans or public or private services-conditional postsecondary tuition assistance solely on the basis of such default or delinquency.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 29, 2020, as **ARC 5106C**. 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 September 2, 2020.

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.

INSPECTIONS AND APPEALS DEPARTMENT[481](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 481—Chapter 6.

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 28, 2020.

The following rule-making actions are adopted:

ITEM 1. Amend **481—Chapter 8**, title, as follows:

~~LICENSING ACTIONS ACTION FOR NONPAYMENT OF CHILD SUPPORT
AND PROHIBITION OF LICENSING ACTION FOR STUDENT LOAN
DEFAULT/NONCOMPLIANCE
WITH AGREEMENT FOR PAYMENT OF OBLIGATION~~

ITEM 2. Amend **481—8.1(252J)**, implementation sentence, as follows:

~~These rules are~~ This rule is intended to implement Iowa Code chapter 252J.

ITEM 3. Rescind rule 481—8.2(261) and adopt the following **new** rule in lieu thereof:

481—8.2(272C) Licensing actions against individuals who default or are delinquent on student loan debt or on a related service obligation prohibited. The department shall not deny the issuance or renewal of a license or suspend or revoke a license to a person who is in default or is delinquent on repayment or a service obligation under federal or state postsecondary educational loans or public or private services-conditional postsecondary tuition assistance solely on the basis of such default or delinquency.

This rule is intended to implement Iowa Code section 272C.4.

ITEM 4. Rescind and reserve rule **481—8.3(261)**.

ITEM 5. Rescind **481—Chapter 8**, implementation sentence.

[Filed 9/2/20, effective 10/28/20]

[Published 9/23/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/23/20.

ARC 5197C

INSURANCE DIVISION[191]

Adopted and Filed

Rule making related to contested case proceedings

The Insurance Division hereby amends Chapter 3, "Contested Cases," and Chapter 4, "Agency Procedure for Rule Making, Waiver of Rules, and Declaratory Orders," Iowa Administrative Code.

INSURANCE DIVISION[191](cont'd)

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 505.8 and 507B.12.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 17A and 507B.

Purpose and Summary

These amendments are a result of the Division's review of rules. These amendments update Chapter 3 by removing unnecessary language, removing duplicative definitions, clarifying procedures, reflecting current practices, allowing for electronic processes, and more closely aligning some procedures to other agencies and the Iowa Rules of Civil Procedure.

Rule 191—3.11(17A), regarding pleadings for intervention, is rescinded and reserved, and a new rule regarding pleadings for intervention in declaratory actions is adopted.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 29, 2020, as **ARC 5109C**. A public hearing was held on August 25, 2020, at 11 a.m. via conference call. No one attended the public hearing. No public comments were received. One change from the Notice has been made to update an incorrect Iowa Code citation.

Adoption of Rule Making

This rule making was adopted by Douglas M. Ommen, Iowa Insurance Commissioner, on September 2, 2020.

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

The Division's general waiver provisions of 191—Chapter 4 apply to these rules.

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 28, 2020.

The following rule-making actions are adopted:

ITEM 1. Amend rule 191—3.2(17A) as follows:

191—3.2(17A) Definitions. ~~Except~~ In addition to the definitions in rule 191—1.1(502,505), and except where otherwise specifically defined by law or the context otherwise requires, the following definitions apply:

INSURANCE DIVISION[191](cont'd)

~~“Commissioner” means the commissioner of insurance or the commissioner’s designee.~~

~~“Contested case” means a proceeding defined by Iowa Code section 17A.2(5), and includes any matter defined as a no factual dispute contested case under 1998 Iowa Acts, chapter 1202, section 14 Iowa Code section 17A.10A.~~

~~“File,” “filed,” or “filing,” when used as a verb, means the actions set forth in subrules 3.12(3) and 3.12(4), except otherwise specifically defined by law. “Filing,” when used as a noun, means the documents filed.~~

~~“Issuance” means the date of mailing of a decision or order or the date of delivery if service is by other means, unless another date is specified in the order.~~

~~“License” means the whole or a part of any permit, certificate, approval, registration, charter or similar form of permission required by statute.~~

~~“Licensee” means a person or entity to whom the division has issued a license.~~

~~“Party” means each person or agency named or admitted as a party or properly seeking and entitled as of right to be admitted as a party the same as defined in Iowa Code section 17A.2.~~

~~“Person” means the same as defined in Iowa Code section 17A.2.~~

~~“Presiding officer” means the commissioner, the commissioner’s designee or an administrative law judge from the department of inspections and appeals.~~

~~“Proposed decision” means the administrative law judge’s or the commissioner’s designee’s recommended findings of fact, conclusions of law, decision, and order in a contested case in which the commissioner did not preside.~~

~~“Provision of law” means the same as defined in Iowa Code section 17A.2.~~

ITEM 2. Amend rules 191—3.4(17A) to 191—3.9(17A) as follows:

191—3.4(17A) Requests for contested case proceeding. Any person claiming an entitlement to a contested case proceeding shall file a written request for such a proceeding within the time specified by the particular rules or statutes governing the subject matter or, in the absence of such law, the time specified in the agency division action in question. The request shall be filed with the insurance division, at the address disclosed in rule 191—1.4(502,505).

The request for a contested case proceeding shall state the name and address of the requester; identify the specific agency division action which is disputed if applicable; include a short and plain statement of the issues of material fact in dispute; and, where the requester is represented by a lawyer, identify the provisions of law or precedent requiring or authorizing a contested case proceeding in the particular circumstances involved; and shall include a short and plain statement of the issues of material fact in dispute.

191—3.5(17A,507B) Commencement of hearing; service; delivery; notice of hearing; answer.

3.5(1) Service and delivery of the notice of hearing.

~~a. Commencement of hearing.~~ Delivery of the notice of hearing referred to in this rule constitutes commencement of the contested case proceeding.

~~b. Delivery of the notice of hearing.~~ Delivery shall be accomplished in the manner described below by personal service as provided in the Iowa Rules of Civil Procedure or by certified mail, return receipt requested, at least 15 days before the hearing date unless the parties agree to a shorter time period, or unless otherwise provided by statute.

~~a. For nonlicensed persons, delivery may be accomplished by:~~

- ~~(1) Personal service as provided in the Iowa Rules of Civil Procedure; or~~
- ~~(2) Certified mail, return receipt requested; or~~
- ~~(3) First-class mail; or~~
- ~~(4) Publication, as provided in the Iowa Rules of Civil Procedure.~~

~~b. For licensees, delivery shall be executed by:~~

- ~~(1) Personal service as provided in the Iowa Rules of Civil Procedure; or~~
- ~~(2) Restricted certified mail.~~

Proof of delivery by mail is the same as proof of mailing specified in subrule 3.12(5).

INSURANCE DIVISION[191](cont'd)

c. Consent to service upon the commissioner. Certain persons regulated by the division have an obligation to keep their contact information, including their mailing address, current. For such persons who have consented in writing to have the commissioner accept service of process on their behalf, delivery of the notice of hearing referred to in this rule is accomplished at the time the notice of hearing is signed by the commissioner, unless otherwise provided by law.

3.5(2) Notice of hearing. The notice of hearing shall be prepared in the form of an order and contain the following information in the notice of hearing or accompanying charging document:

a. to *c.* No change.

d. A short and plain statement of the matters asserted. If the insurance division or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon written application, a more definite and detailed statement shall be furnished;

e. to *g.* No change.

h. Identification of the presiding officer and address, if known. If not known, a general description of the type of person who generally will serve as presiding officer; and

i. Notification of the time period in which a party may request, under ~~1998 Iowa Acts, chapter 1202, section 15(1), and rule 191—3.6(17A)~~, that the presiding officer be an administrative law judge;

j. Notification that failure to file an answer within 20 days of service may result in default pursuant to rule 191—3.22(17A); and

k. Reference to the procedural rules governing discovery.

3.5(3) Answer. An answer shall be filed within 20 days of service of the notice of hearing unless otherwise ordered. A party may move to dismiss or apply for a more definite and detailed statement of the matters asserted or charging document when appropriate.

a. An answer shall show on whose behalf it is filed and specifically admit, deny, or otherwise answer all material allegations of the notice of hearing or accompanying charging document. The answer shall state any facts deemed to show an affirmative defense and contain as many additional defenses as the pleader may claim.

b. No change.

c. Any allegation in the notice of hearing or accompanying charging document not denied in the answer is considered admitted. The presiding officer may refuse to consider any defense not raised in the answer which could have been raised on the basis of facts known when the answer was filed if any party would be prejudiced.

d. The answer shall be filed with the division pursuant to rule 191—3.12(17A).

3.5(4) Amendments. Any notice of hearing or other charging document may be amended before a responsive pleading has been filed. Amendments to a notice of hearing or charging document after a responsive pleading has been filed and amendments to an answer may be allowed with the consent of the other parties or in the discretion of the presiding officer who may impose terms or grant a continuance.

3.5(5) Timing of hearing. The hearing in a contested case proceeding shall be held within 90 days after the date of the notice of hearing, ~~subject to the provisions of rule 3.17(17A)~~ commencement of the contested case unless a continuance is granted by the presiding officer.

191—3.6(17A) Presiding officer.

3.6(1) If the presiding officer is not an administrative law judge, any party wishing to request that the presiding officer assigned to render a proposed decision be an administrative law judge employed by the department of inspections and appeals must file a written request with the insurance division within 20 days after service of a notice of hearing identifying or describing the presiding officer as the commissioner or ~~members of the commissioner's staff~~ designee.

3.6(2) The commissioner may deny the request only upon a finding that one or more of the following apply:

a. to *i.* No change.

j. The contested case arises from matters asserted pursuant to Iowa Code ~~chapters~~ chapter 507A, 507B, 508B, 515G and or 521A.

INSURANCE DIVISION[191](cont'd)

3.6(3) and 3.6(4) No change.

3.6(5) Except as ~~provided~~ otherwise provided by another provision of law, all rulings by an administrative law judge acting as presiding officer are subject to appeal to the commissioner. A party must seek any available intra-agency appeal in order to exhaust adequate administrative remedies.

191—3.7(17A) Waiver of procedures. Unless otherwise precluded by law, the parties in a contested case proceeding may waive any provision of this chapter. However, the ~~insurance~~ division may exercise discretion to refuse to give effect to such a waiver when the waiver is ~~to be~~ inconsistent with the public interest.

191—3.8(17A) Telephone, video, or electronic proceedings.

3.8(1) The presiding officer may resolve preliminary procedural motions by telephone conference, videoconference or other electronic means in which all parties have been afforded notice and an opportunity to participate.

3.8(2) The presiding officer may, on the officer's own motion or as requested by a party, order hearings or argument to be held by telephone conference, videoconference or other electronic means in which all parties have an opportunity to participate. Any party may call witnesses by telephone conference, videoconference or other electronic means, with 14 days' advance notice to all parties and the presiding officer. Failure of a party to make timely disclosure may result in the disallowance of testimony by telephone conference, videoconference or other electronic means.

191—3.9(17A) Disqualification.

3.9(1) No change.

3.9(2) The term "personally investigated" means taking affirmative steps to interview witnesses directly or to obtain documents or other information directly. The term "personally investigated" does not include general direction and supervision of assigned investigators, unsolicited receipt of information which is relayed to assigned investigators, review of another person's investigative work product in the course of determining whether there is probable cause to initiate a proceeding, or exposure to factual information while performing other agency functions, including fact gathering for purposes other than investigation of the matter which culminates in a contested case. Factual information relevant to the merits of a contested case received by a person who later serves as presiding officer in that case shall be disclosed if required by Iowa Code section 17A.17 ~~as amended by 1998 Iowa Acts, chapter 1202, section 19,~~ and subrules 3.9(3) and 3.23(9).

3.9(3) No change.

3.9(4) To request disqualification of a presiding officer, a party shall file a motion supported by an affidavit pursuant to ~~1998 Iowa Acts, chapter 1202, section 19(7)~~ Iowa Code section 17A.17(7). The motion shall be filed as soon as practical after the reason alleged in the motion becomes known to the party. If, during the course of the hearing, a party first becomes aware of evidence of bias or other grounds for disqualification, the party may move for disqualification but shall establish the grounds by the introduction of evidence into the record.

If the presiding officer determines that disqualification is appropriate, the presiding officer shall withdraw. If the presiding officer determines that withdrawal is not required, the presiding officer shall enter an order to that effect. A party requesting disqualification may seek an interlocutory appeal under rule 191—3.25(17A) and seek a stay under rule 191—3.29(17A).

ITEM 3. Rescind and reserve rule **191—3.11(17A)**.

ITEM 4. Amend rules 191—3.12(17A) to 191—3.14(17A) as follows:

191—3.12(17A) Service and filing of pleadings and other papers.

3.12(1) Required service. Every pleading, motion, document, or other paper that is filed in a contested case proceeding and every ~~paper relating to~~ discovery request or response in such a proceeding shall be served upon each of the parties of record to the proceeding, including the person designated as advocate or prosecutor for the ~~insurance~~ division, at no later than the time of filing, if filing is required.

INSURANCE DIVISION[191](cont'd)

Except for an application for rehearing as provided in Iowa Code section 17A.16(2), the party filing a document is responsible for service on all parties.

3.12(2) *Methods of service.* Service upon a party represented by an attorney shall be made upon the attorney of record unless otherwise ordered. Service is made by delivering or mailing a copy to the attorney at the attorney's last-known mailing address. Service upon an unrepresented party shall be made by delivering or mailing a copy to the party's last-known mailing address. Service by mail is complete upon mailing, except where otherwise specifically provided by statute, rule, or order. Service may also be made upon a party or attorney by email if the party or attorney consents in writing to be served in that manner in that case. The party or attorney may consent by providing an email address for service to the other party or by filing a document with the division by email as specified in subrule 3.12(4). The consent may be withdrawn by written notice served on all other parties or attorneys. Service by electronic means is complete upon transmission to the provided email address unless the party making service received an electronic rejection or delivery failure.

3.12(3) *Required filing.* After the notice of hearing, all pleadings, motions, ~~documents or other papers~~ and notices of discovery in a contested case proceeding shall be filed with the ~~presiding officer~~ division's designated filing clerk. If a contested case is assigned to an administrative law judge with the department of inspections and appeals, filing shall be conducted in accordance with the rules of the department of inspections and appeals, unless ordered otherwise.

3.12(4) *Methods of filing.* Except where otherwise provided by law, a document is deemed filed at the time it is ~~delivered~~ hand-delivered to the ~~presiding officer~~ division at the address disclosed in rule 191—1.4(502,505) during normal business hours, delivered to an established courier service for immediate delivery to that office during normal business hours, ~~or~~ mailed by first-class mail or state interoffice mail to that office, so long as there is proof of mailing, or emailed to the designated filing clerk at enforcement.filings@iid.iowa.gov.

3.12(5) *Proof of mailing.* Proof of mailing includes either: a legible United States Postal Service postmark on the envelope, a certificate of service, a notarized affidavit, or a certification in substantially the following form:

I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the Insurance Division at the address disclosed in 191—1.4(502,505) and to the names and addresses of the parties listed below by depositing the same in (a United States post office mailbox with correct postage properly affixed or state interoffice mail).

(Date)

(Signature)

3.12(6) *Proof of emailing.* ~~The presiding officer, by order, may permit service or filing of particular documents by facsimile or electronic mail or similar electronic means unless such service or filing is precluded by a provision of law. When permitted, service by facsimile, electronic mail or similar electronic means is complete upon transmission. In the absence of such an order, facsimile or electronic transmission does not satisfy service or filing requirements, but may be used to supplement service or filing when rapid notice is needed. Proof of emailing includes a certification in substantially the following form:~~

I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of emailing), I emailed copies of (describe document) addressed to the Insurance Division at the email address disclosed in 191—subrule 3.12(4) and to the names and email addresses of the parties listed below by transmitting the same from (sending email address).

(Date)

(Signature)

191—3.13(17A) Discovery.

3.13(1) *Discovery permitted.* Where statutory time limitations permit, discovery may be conducted as permitted by the Iowa Rules of Civil Procedure and these rules. ~~Unless lengthened or shortened by~~

INSURANCE DIVISION[191](cont'd)

~~these rules or by order of the presiding officer, time periods for compliance with discovery shall be as provided in the Iowa Rules of Civil Procedure. Discovery shall be conducted in an expedited manner to prevent unnecessary delays to the hearing.~~

3.13(2) *Scope of discovery.* Parties may obtain discovery regarding any matter, not privileged or confidential, which is relevant to the claim or defense of the party in the pending action seeking discovery or to the claim or defense of any other party. Discovery responses are subject to the confidentiality provisions of Iowa Code section 22.7, chapters under the jurisdiction of the commissioner, and rule 191—3.12(17A), in accordance with applicable law, including, but not limited to, Iowa Code sections 17A.13(2) and 522B.11(6), unless otherwise permitted by the presiding officer for good cause shown.

3.13(3) *Notice of discovery.* Discovery is only permitted after a party has filed, pursuant to rule 191—3.12(17A), a notice of discovery no later than 15 days after the filing of an answer unless extended by the presiding officer for good cause shown or by agreement of the parties. The notice of discovery shall be a general notice that the party is serving discovery. The notice should include a statement regarding the type of discovery being conducted and the due date but the actual discovery requests do not need to be filed.

3.13(4) *Discovery responses.* Parties must respond to discovery within 15 days of receipt unless the parties mutually agree there is good cause to lengthen the response period or by order of the presiding officer. Time periods for compliance with discovery may be lengthened or shortened by order of the presiding officer.

3.13(5) *Discovery completion.* All discovery must be completed no later than 30 days before the prehearing conference.

~~3.13(2)~~ 3.13(6) *Discovery motions.* Any motion relating to discovery shall must allege that the moving party has previously made a good-faith attempt to resolve the discovery issues involved with the opposing party in a timely manner. Motions in regard to discovery shall be ruled upon by the presiding officer. Opposing parties shall be afforded the opportunity to respond within ten days of the filing of the any such motion unless the time is shortened as provided in subrule ~~3.13(1)~~ 3.13(4). The presiding officer may rule on the basis of the written motion and any response, or may order argument on the motion.

191—3.14(17A,505) Subpoenas.

~~3.14(1) A subpoena shall be issued by the presiding officer at a party's request. Such a request must be in writing. In the absence of good cause for permitting later action, a request for a subpoena must be received at least ten days before the scheduled hearing. The request shall include the name, address, and telephone number of the requesting party.~~

a. A request for a subpoena must be in writing and submitted to the presiding officer or designated filing clerk by mail, email, or in-person delivery in accordance with the filing requirements of rule 191—3.12(17A).

b. The request shall include the names of the parties, the case number, the name and address of the requested witness, and a description or list of any documents or other items requested. The request shall also note the nature of the proceeding at which the witness is requested to testify (e.g., deposition, telephone hearing, or in-person hearing), the date and time of the proceeding, whether the witness is requested to appear in person or by telephone, the location of the proceeding, and the method of recording any deposition.

c. In the absence of good cause for permitting later action, a request for a subpoena must be received at least ten days before the scheduled proceeding.

~~3.14(2) Except to the extent otherwise provided by law, parties are responsible for service of their own subpoenas and payment of witness fees and mileage expenses. The requesting party is responsible for arranging service of a subpoena prior to the proceeding at which the testimony is commanded or the time at which the requested documents must be produced. The requesting party is responsible for any cost associated with serving a subpoena and for the payment of witness fees and mileage expenses. Subpoenaed witnesses shall be entitled to receive witness fees for attendance, paid pursuant to Iowa Code section 622.69, and mileage shall be paid for each mile actually traveled for a subpoenaed witness~~

INSURANCE DIVISION[191](cont'd)

to participate in an in-person hearing or deposition pursuant to Iowa Code section 622.69. Witnesses called to testify only to an opinion founded on special study or experience in any branch of science, or to make scientific or professional examinations and state the result thereof, may receive additional compensation, to be fixed by the presiding officer, with reference to the value of the time employed and the degree of learning or skill required, but such additional compensation shall not exceed the sum set forth in Iowa Code section 622.72.

3.14(3) No change.

ITEM 5. Amend subrule 3.15(4) as follows:

3.15(4) Motions pertaining to the hearing, except motions for summary judgment and requests for continuances, must be filed and served at least ten days prior to the date of hearing unless there is good cause for permitting later action or the time for such action is lengthened or shortened by an order of the presiding officer.

ITEM 6. Amend rule 191—3.16(17A) as follows:

191—3.16(17A) Prehearing conference.

3.16(1) Any party may request a prehearing conference. A written request for prehearing conference or an order for prehearing conference on the presiding officer's own motion shall be filed not less than 14 days prior to the hearing date. A prehearing conference shall be scheduled not less than ~~three~~ seven business days prior to the hearing date.

The presiding officer shall give written notice of the prehearing conference to all parties.

3.16(2) Prehearing conferences ~~shall~~ may be conducted by telephone conference or videoconference or in person as stated in the notice of hearing, unless otherwise ordered by the presiding officer.

3.16(3) No change.

3.16(4) Witness or exhibit lists may be amended subsequent to the prehearing conference within time limits established by the presiding officer at the prehearing conference. If no time limits are established at the prehearing conference, subsequent amendments to a witness or exhibit list may be allowed with the consent of the other parties or in the discretion of the presiding officer who may impose terms and time limits. Any such amendments must be served on all parties.

3.16(5) No change.

ITEM 7. Amend rule 191—3.19(17A), parenthetical implementation statute, as follows:

191—3.19(17A,507B) Intervention.

ITEM 8. Amend paragraph **3.20(2)“d”** as follows:

d. Each witness shall be sworn or affirmed by the presiding officer, ~~or~~ of the court reporter, or a person otherwise authorized by law, and be subject to examination and cross-examination. The presiding officer may limit questioning in a manner consistent with law; and

ITEM 9. Amend rule 191—3.21(17A), parenthetical implementation statute, as follows:

191—3.21(17A,507B) Evidence.

ITEM 10. Amend rule 191—3.22(17A) as follows:

191—3.22(17A) Default.

3.22(1) If a party fails to appear or participate in a contested case proceeding after proper service of notice as provided in subrule 3.5(1), the presiding officer may, if no adjournment is granted, enter a default decision or proceed with the hearing and render a decision in the absence of the party.

3.22(2) No change.

3.22(3) Default decisions or decisions rendered on the merits after a party has failed to appear or participate ~~become~~ constitute final agency division action unless, one of the following occurs: (1) the presiding officer otherwise orders, (2) a motion to vacate the default decision is filed within 15 days after the date of notification or mailing of the decision, a motion to vacate is filed and served on all parties

INSURANCE DIVISION[191](cont'd)

~~or an appeal of a decision on the merits is timely initiated within the time provided by rule 3.27(17A) in accordance with rule 191—3.12(17A), or (3) an appeal to the commissioner of a proposed default decision is filed in accordance with rule 191—3.27(17A). A motion to vacate must be filed and served on all parties and state all facts relied upon by the moving party which establish that good cause existed for that party's failure to appear or participate at the contested case proceeding. Each fact so stated must be substantiated by at least one sworn affidavit of a person with personal knowledge of each such fact, which affidavit(s) must be attached to the motion.~~

3.22(4) No change.

~~**3.22(5)** Properly substantiated and timely filed motions to vacate shall be granted only for good cause shown. A motion to vacate shall be granted only when it is timely filed, is properly substantiated, and demonstrates good cause for the party's failure to appear or participate. The burden of proof as to good cause is on the moving party. Adverse parties shall have ten days to respond to a motion to vacate. Adverse parties shall be allowed to conduct discovery as to the issue of good cause and to present evidence on the issue prior to a decision on the motion, if a request to do so is included in that party's response.~~

3.22(6) to 3.22(10) No change.

ITEM 11. Amend subrule 3.23(9) as follows:

3.23(9) The presiding officer may render a proposed or final decision imposing appropriate sanctions for violations of this rule including default, a decision against the offending party, censure, or suspension or revocation of the privilege to practice before the agency division. Violation of ex parte communication prohibitions by agency division personnel shall be reported to the first deputy commissioner or designee for possible sanctions including censure, suspension, dismissal or other disciplinary action.

ITEM 12. Amend rule 191—3.26(17A) as follows:

191—3.26(17A) Final decision.

3.26(1) No change.

3.26(2) When the commissioner does not preside over the reception of evidence, the presiding officer shall make a proposed decision. The proposed decision becomes the final decision of the agency division when adopted by the commissioner or without further proceedings after the time provided in rule 191—3.27(17A) unless there is an a timely appeal to, or review on motion of, the commissioner within the time provided in rule 3.27(17A) the commissioner or motion by the division to review the proposed decision.

3.26(3) The presiding officer's decision shall specify in bold print either that the decision is final or that the decision shall become final without further proceedings after the time provided in rule 191—3.27(17A) unless there is an appeal to, or review on motion of, the commissioner within the time provided in rule 191—3.27(17A).

3.26(4) No change.

3.26(5) Parties shall be promptly notified of each proposed or final decision or order by delivery to them of a copy of such decision or order in the manner provided by Iowa Code section 17A.12(1) unless the party has consented to an alternative form of delivery.

ITEM 13. Amend rule 191—3.27(17A), catchwords, as follows:

191—3.27(17A) Appeals and review by the commissioner of proposed decisions.

ITEM 14. Amend subrule 3.27(2) as follows:

3.27(2) The ~~insurance~~ division may initiate review of a proposed decision on its own motion at any time within 30 days following issuance of such a decision.

ITEM 15. Amend subrule 3.28(2) as follows:

3.28(2) The application for rehearing shall state on whose behalf it is filed, the specific grounds for rehearing, and the relief sought. In addition, the application shall state whether the applicant desires reconsideration of all or part of the agency division decision on the existing record and whether, on

INSURANCE DIVISION[191](cont'd)

the basis of the grounds enumerated in subrule 3.27(5), the applicant requests an opportunity to submit additional evidence.

ITEM 16. Amend subrule 3.28(4) as follows:

3.28(4) A copy of the application shall be timely mailed by the ~~applicant~~ division to all parties of record not joining therein. ~~If if the application does not contain a certificate of service, the division shall serve copies on all parties demonstrating service on all parties.~~

ITEM 17. Amend rule 191—3.29(17A) as follows:

191—3.29(17A) Stay of agency division action.

3.29(1) Petition requirements for stay of agency division action:

a. Any party to a contested case proceeding may petition the commissioner for a stay of an order issued in that proceeding or for other temporary remedies, pending review by the agency division. The petition shall be filed with the notice of appeal and shall state the reasons justifying a stay or other temporary remedy. The commissioner may rule on the stay or authorize the presiding officer to do so.

b. No change.

3.29(2) In determining whether to grant a stay, the presiding officer or commissioner shall consider the factors listed in ~~1998 Iowa Acts, chapter 1202, section 23(5e)~~ Iowa Code section 17A.19(5).

3.29(3) Any petition for stay of division action shall be deemed denied unless the commissioner grants the application within 20 days after its filing.

~~3.29(3)~~ **3.29(4)** A stay may be vacated by the issuing authority upon application of the commissioner or any other party.

ITEM 18. Amend rule 191—3.31(17A) as follows:

191—3.31(17A) Emergency adjudicative proceedings.

3.31(1) To the extent necessary to prevent or avoid immediate danger to the public health, safety, or welfare, and consistent with the Constitution and other provisions of law, the ~~insurance~~ division may issue a written order in compliance with ~~1998 Iowa Acts, chapter 1202, section 21,~~ Iowa Code section 17A.18A to suspend a license in whole or in part, order the cessation of any continuing activity, order affirmative action, or take other action within the jurisdiction of the division by emergency adjudicative order. Before issuing an emergency adjudicative order the division shall consider factors including, but not limited to, the following:

a. to f. No change.

3.31(2) An emergency adjudicative order shall contain findings of fact, conclusions of law, and policy reasons to justify the determination of an immediate danger in the ~~insurance~~ division's decision to take immediate action.

a. The written emergency adjudicative order shall be immediately delivered to persons who are required to comply with the order by utilizing ~~one or more of the following procedures:~~ the procedures specified in subrule 3.5(1).

~~(1) For nonlicensed persons, delivery may be executed by:~~

~~1. Personal service as provided in the Iowa Rules of Civil Procedure; or~~

~~2. Certified mail, return receipt requested; or~~

~~3. First-class mail; or~~

~~4. Publication, as provided in the Iowa Rules of Civil Procedure; or~~

~~5. Facsimile or other electronic transmission. Facsimile or other electronic transmission may be used as the sole method of delivery if the person required to comply with the order has filed a written request that agency orders be sent by facsimile and has provided a fax number for that purpose.~~

~~(2) For licensees, delivery shall be executed by:~~

~~1. Personal service as provided in the Iowa Rules of Civil Procedure; or~~

~~2. Restricted certified mail.~~

b. If practical, the ~~insurance~~ division shall select the procedure for providing written notice that best ensures prompt, reliable delivery.

INSURANCE DIVISION[191](cont'd)

3.31(3) Unless the written emergency adjudicative order is provided by personal delivery on the same day that the order issues, the insurance division shall make reasonable immediate efforts to contact by telephone the persons who are required to comply with the order.

3.31(4) After issuance of an emergency adjudicative order, the insurance division shall proceed as quickly as feasible to complete any proceedings that would be required if the matter did not involve an immediate danger.

3.31(5) A written emergency adjudicative order shall include notification of the date on which insurance division proceedings are scheduled for completion. After an emergency adjudicative order is issued, continuance of further division proceedings to a later date will be granted only in compelling circumstances, and upon written application.

3.31(6) No change.

ITEM 19. Amend rule 191—3.33(17A,502,505) as follows:

191—3.33(17A,502,505) Informal settlement.

3.33(1) A party to a controversy that may culminate or has culminated in contested case proceedings may attempt informal settlement ~~of the controversy~~ by complying with the procedures set forth in this subrule. No party ~~to a controversy~~ shall be required to settle the controversy or contested case by submitting to informal settlement procedures.

~~a. **3.33(2)** Parties desiring informal settlement shall set forth in writing the various points of a proposed settlement, which may include a stipulated statement including findings of facts.~~

~~b. **3.33(3)** When signed by the parties to a controversy and approved by the commissioner, a proposed settlement shall represent final disposition of the matter in place of contested case proceedings.~~

~~c. **3.33(4)** Where When there are is more than two parties to a controversy involving one party adverse to the insurance division, a separate settlement between one party and the division is permissible.~~

~~d. A proposed settlement which is not accepted or signed by the parties shall not be admitted as evidence in the record of a contested case proceeding.~~

3.33(2) A party to a contested case proceeding may attempt informal settlement by complying with the procedures set forth in this subrule. No party shall be required to settle the contested case proceeding by submitting to informal settlement procedures.

a. Parties desiring informal settlement shall set forth in writing the various points of a proposed settlement, which may include a stipulated statement of facts.

b. When signed by the parties to the contested case proceeding and the presiding officer, a proposed settlement shall represent final disposition of the proceeding.

c. Where there are more than two parties to a contested case proceeding involving the insurance division, a separate settlement between one party and the division is permissible.

d. **3.33(5)** A proposed settlement which is not accepted or signed by the parties and the ~~presiding officer~~ commissioner shall not be admitted as evidence in the record of a contested case proceeding. Evidence of conduct or statements made in settlement negotiations likewise are not admissible. This rule does not require exclusion when the evidence is offered for another purpose, such as proving bias or prejudice of a witness, negating a contention of undue delay, or proving an effort to obstruct a criminal investigation or prosecution.

ITEM 20. Rescind and reserve rule **191—3.34(17A,502,505)**.

ITEM 21. Amend rule **191—4.2(17A)**, definition of “Waiver,” as follows:

“*Waiver*” means action by the division that suspends in whole or in part the requirements or provisions of a rule as applied to an identified person on the basis of the particular circumstances of that person. For simplicity, the term “variance” as used in Iowa Code chapter 17A is included in this definition of “waiver” for purposes of this chapter.

ITEM 22. Adopt the following **new** subrule 4.7(9):

4.7(9) Petitions for rule making and the disposition of the petition shall be submitted to the administrative rules review committee pursuant to Iowa Code chapter 17A.

INSURANCE DIVISION[191](cont'd)

ITEM 23. Amend **191—Chapter 4**, division heading, as follows:

DIVISION II
WAIVER AND VARIANCE OF RULES

ITEM 24. Amend subrule 4.22(4) as follows:

4.22(4) Content of petition. A petition for waiver must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

BEFORE THE IOWA INSURANCE COMMISSIONER

In the matter of: (Name of Person
Requesting Waiver or Variance)



REQUEST FOR WAIVER OF RULE
(Specify number of rule for which waiver
is requested)

ITEM 25. Rescind rule 191—4.39(17A) and adopt the following new rule in lieu thereof:

191—4.39(17A) Intervention.

4.39(1) Persons who qualify under any applicable provision of law as an intervenor and who file a petition for intervention within 20 days of the filing of a petition for declaratory order (after time for notice under rule 191—4.38(17A) and before 30-day time for division action under rule 191—4.44(17A)) shall be allowed to intervene in a proceeding for a declaratory order.

4.39(2) Any person who files a petition for intervention at any time prior to the issuance of an order may be allowed to intervene in a proceeding for a declaratory order at the discretion of the division.

4.39(3) A petition must be typewritten or legibly handwritten in ink and shall state in separately numbered paragraphs the following:

- a. Facts supporting the intervenor’s standing and qualifications for intervention.
- b. The answers urged by the intervenor to the question or questions presented and a summary of the reasons urged in support of those answers.
- c. Reasons for requesting intervention and disclosure of the intervenor’s interest in the outcome.
- d. A statement indicating whether the intervenor is currently a party to any proceeding involving the questions at issue and whether, to the intervenor’s knowledge, those questions have been decided by, are pending determination by, or are under investigation by any governmental entity.
- e. The names and addresses of any additional persons, or a description of any additional class of persons, known by the intervenor to be affected by, or interested in, the questions presented.
- f. Whether the intervenor consents to be bound by the determination of the matters presented in the declaratory order proceeding.

4.39(4) The petition must be dated and signed by the intervenor or the intervenor’s representative. It must also include the name, mailing address, and telephone number of the intervenor and intervenor’s representative, and a statement indicating the person to whom communications should be directed.

[Filed 9/3/20, effective 10/28/20]

[Published 9/23/20]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 9/23/20.

ARC 5188C

NURSING BOARD[655]

Adopted and Filed

Rule making related to Iowa nurse assistance program

The Board of Nursing hereby amends Chapter 19, “Iowa Nurse Assistance Program,” Iowa Administrative Code.

NURSING BOARD[655](cont'd)

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 147.76 and 272C.3(1)“k.”

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 147.76 and 272C.3(1)“k.”

Purpose and Summary

On October 9, 2019, the Board voted to decline to issue a declaratory order in response to a petition on the basis that the issue raised was better addressed through the rule-making process. On November 6, 2019, the Board issued a written ruling formalizing its reasons for declining to issue the order.

This rule making now addresses the issue raised by the petition for declaratory order and clarifies the scope of the Board’s jurisdiction to impose discipline against a current participant in the Iowa Nurse Assistance Program. This rule making clarifies that, consistent with the jurisdictional authority provided in Iowa Code section 272C.3(1)“k,” a participant’s entrance into an initial agreement or contract with the program committee does not divest the Board of its authority to discipline a current participant in circumstances involving out-of-state discipline or criminal convictions, notwithstanding any relation to the participant’s impairment. This rule making also clarifies that a current participant shall be referred to the Board for appropriate action if that participant is alleged to have violated a statute or Board rule based on conduct unrelated to the participant’s impairment.

This rule making also updates the language in Chapter 19 to reflect modern terminology for defining qualifying impairments. Additionally, this rule making clarifies that any self-report from applicants or licensees must be submitted in a written form as opposed to verbally. This is to assist in record keeping and clarity of the histories of participants.

This rule making updates the definition of treatment providers from “approved” by the Board to “recognized” by the Board, while still allowing the Board to retain the authority to approve treatment providers. This change is in response to confusion by participants as to which online list or providers they should refer.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 26, 2020, as **ARC 4945C**. A public hearing was held on March 17, 2020, at 9 a.m. at the Board’s office, Suite B, 400 S.W. Eighth Street, Des Moines, Iowa. No one attended the public hearing. 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 July 15, 2020.

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 655—Chapter 15.

NURSING BOARD[655](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 28, 2020.

The following rule-making actions are adopted:

ITEM 1. Amend rule 655—19.1(272C) as follows:

655—19.1(272C) Iowa nurse assistance program committee. Pursuant to the authority of Iowa Code section 272C.3(1)“k,” the board establishes the Iowa nurse assistance program committee (INAPC), formerly known as the licensee review committee, to implement the Iowa nurse assistance program (INAP). The purpose of the INAPC is to provide a program to support the evaluation and monitoring of licensees who are impaired as a result of ~~alcohol or drug abuse, dependency, or addiction, or by any substance use disorder or any mental or physical disorder or disability~~ health condition, while protecting the health, safety and welfare of the public.

ITEM 2. Amend rule **655—19.2(272C)**, definition of “Approved treatment provider,” as follows:
~~“Approved Recognized treatment provider”~~ means a licensed health care provider with board-approved expertise in ~~substance use disorder disorders~~ substance use disorders or mental or physical health conditions.

ITEM 3. Amend subrule 19.4(1) as follows:

19.4(1) Self-report. An applicant or a licensee shall provide a written self-report of an impairment or potential impairment directly to the program.

ITEM 4. Amend subrule 19.4(5) as follows:

19.4(5) Authority and jurisdiction of the board over participants.

~~a. Participation in the program~~ A participant's entrance into an initial agreement or contract with the INAPC does not divest the board of its authority or jurisdiction over the participant.

~~b. A participant's entrance into an initial agreement or contract with the INAPC specifically does not divest the board of its authority or jurisdiction to impose discipline against a participant who receives a criminal conviction or discipline from another state's licensing agency, regardless of whether the conduct resulting in the conviction or out-of-state discipline is related to the participant's impairment, and regardless of whether the conviction or out-of-state discipline occurred prior to or after the participant entered into the initial agreement or contract with the INAPC.~~

~~c. A participant with an impairment or potential impairment~~ Participants may be eligible to ~~participate~~ continue participating in the program, subject to the INAPC's discretion, while being subject to investigation or discipline by the board for ~~matters other than the alleged~~ conduct unrelated to the participant's impairment.

ITEM 5. Amend rule 655—19.6(272C) as follows:

655—19.6(272C) Limitations Referral to the board. ~~Participation in the INAP shall not relieve the board of any duties and shall not divest the board of any authority or jurisdiction otherwise provided. A~~ If a participant who violates is alleged to have violated a statute or board administrative rule, which

NURSING BOARD[655](cont'd)

based on conduct that is unrelated to the participant's impairment, the INAPC shall be referred refer the participant to the board for appropriate action.

[Filed 8/10/20, effective 10/28/20]

[Published 9/23/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/23/20.

ARC 5189C

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Rule making related to continuing education exceptions and removal of licensure sanctions for nonpayment of student debt

The Professional Licensure Division hereby amends Chapter 4, "Board Administrative Processes," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 272C.2 and 272C.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 272C.2(4) and 272C.4(10).

Purpose and Summary

2019 Iowa Acts, Senate File 304, amended Iowa Code section 272C.4 and removed the requirement that licensing boards impose discipline against a licensee who has defaulted on a repayment or service obligation under any federal or state educational loan or service-conditional scholarship program. This rule making removes the subrule language that adopts the Department of Public Health's procedures for denying a license or imposing discipline against a license following receipt of a certificate of noncompliance from the College Student Aid Commission and adds language specifying that licensure sanctions for default or delinquency on student debt or a service obligation are prohibited.

This rule making also amends subrule 4.12(1) governing automatic continuing education exemptions to clarify that funeral directors who served honorably on active duty in the military service during the license biennium may be exempt from continuing education requirements.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on March 11, 2020, as **ARC 4963C**. A public hearing was scheduled but, due to COVID-19, was not held. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Division on August 25, 2020.

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.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Waivers

A waiver provision is not included in this rule making because all administrative rules of the professional licensure boards in the Division of Professional Licensure are subject to the waiver provision accorded under 645—Chapter 18.

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 28, 2020.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 4.12(1) as follows:

4.12(1) A licensee, ~~except a funeral director,~~ shall be exempt from the continuing education requirement during the license biennium when the licensee:

a. to d. No change.

ITEM 2. Amend rule 645—4.16(252J,261,272D) as follows:

645—4.16(252J,261,272D) Noncompliance rules regarding child support, loan repayment and nonpayment of state debt.

4.16(1) *Child support noncompliance.* The board hereby adopts by reference 641—Chapter 192, “Child Support Noncompliance,” Iowa Administrative Code.

4.16(2) ~~*Noncompliance of loan repayment. Sanctions for default or delinquency on student loan debt or service obligation prohibited.*~~ The board hereby adopts by reference 641—Chapter 195, “Student Loan Default/Noncompliance with Agreement for Payment of Obligation,” Iowa Administrative Code. The board shall not suspend or revoke the license or certification of a person who is in default or is delinquent on repayment or a service obligation under federal or state postsecondary educational loans or public or private services-conditional postsecondary tuition assistance solely on the basis of such default or delinquency.

4.16(3) *Nonpayment of state debt.* The board hereby adopts by reference 641—Chapter 194, “Nonpayment of State Debt,” Iowa Administrative Code.

ITEM 3. Amend **645—Chapter 4**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 17A, 21, 147, 252J, ~~261~~, 272C and 272D.

[Filed 8/25/20, effective 10/28/20]

[Published 9/23/20]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 9/23/20.

ARC 5190C**REVENUE DEPARTMENT[701]****Adopted and Filed****Rule making related to tax return preparers**

The Revenue Department hereby amends Chapter 7, “Practice and Procedure Before the Department of Revenue,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted 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 421.62 to 421.64.

Purpose and Summary

The Department has adopted this rule making to implement new provisions that were added to Iowa Code chapter 421 by 2019 Iowa Acts, House File 590, and by 2020 Iowa Acts, House File 2641. Iowa Code section 421.62 defines “tax return preparer” and sets forth a penalty for tax return preparers who fail to include their preparer tax identification number on certain returns or claims for refund they prepare under Iowa Code chapter 422. Iowa Code section 421.63 grants the Department the authority to enjoin certain tax return preparers. Lastly, Iowa Code section 421.64 imposes continuing education requirements on tax return preparers.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 26, 2020, as **ARC 4942C**. No public comments were received.

On June 29, 2020, Governor Reynolds signed 2020 Iowa Acts, House File 2641, into law, which provides technical changes to Iowa Code sections 421.62 and 421.64 and adds a clarifying definition to Iowa Code section 421.62. In response to this legislation, the Department filed an Amended Notice of Intended Action that changed a term from “tax return or claim for refund” to “income tax return or claim for refund,” modified the definition of “tax return preparer,” and made technical changes throughout the rule to reflect these alterations. Apart from these nonsubstantive technical corrections, no other changes were included in the Amended Notice.

The Amended Notice of Intended Action was published in the Iowa Administrative Bulletin on July 29, 2020, as **ARC 5103C**. The Department received one comment in regard to the Amended Notice of Intended Action. The commenter was concerned about the definition of “an individual licensed as a certified public accountant or a licensed public accountant under Iowa Code chapter 542 or a similar law of another state.” In particular, the commenter was concerned that a portion of the definition was repetitive and would cause confusion. As a result, the commenter proposed alternative language that kept much of the original definition. The Department considered this change and ultimately adjusted the relevant definition in a slightly different manner from the commenter’s proposal, but the Department believes the change adequately addresses the commenter’s concern. No other changes from the Amended Notice of Intended Action have been made.

Adoption of Rule Making

This rule making was adopted by the Department on September 2, 2020.

REVENUE DEPARTMENT[701](cont'd)

Fiscal Impact

This rule making has no fiscal impact beyond that of the legislation it is intended to implement. A fiscal estimate prepared by the Department for a similar bill is available upon request.

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).

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 28, 2020.

The following rule-making action is adopted:

Adopt the following **new** rule 701—7.36(421):

701—7.36(421) Tax return preparers.

7.36(1) Definitions. For the purposes of this rule and for Iowa Code sections 421.62, 421.63, and 421.64, the following definitions apply:

“An enrolled agent enrolled to practice before the federal Internal Revenue Service (IRS) pursuant to 31 CFR §10.4” means an individual who has an active status as an enrolled agent under 31 CFR §10.4(a) or (d) and is not currently under suspension or disbarment from practice before the IRS. An enrolled agent does not include an enrolled retirement plan agent under 31 CFR §10.4(b) or a registered tax return preparer under 31 CFR §10.4(c).

“An individual admitted to practice law in this state or another state” means an individual who has an active license to practice law in this state or another state, is considered in good standing with the licensing authority of this or another state, and is currently authorized to engage in the practice of law.

“An individual licensed as a certified public accountant or a licensed public accountant under Iowa Code chapter 542 or a similar law of another state” means an individual who has an active certified public accountant license or an active public accountant license under Iowa Code chapter 542 or a similar law of another state and is in good standing with the Iowa accountancy examining board or similar authority of another state.

“Hour of continuing education” means a minimum of 50 minutes spent by a tax return preparer in actual attendance at or completion of an IRS-approved provider of continuing education course.

“Income tax return or claim for refund” means any return or claim for refund under Iowa Code chapter 422, excluding withholding returns under Iowa Code section 422.16.

“New tax preparer” means an individual who qualifies as a “tax return preparer” under Iowa Code section 421.62 for the current tax year but would not have qualified as such during any prior calendar year. See paragraph 7.36(8)“a” for examples regarding who qualifies as a new tax preparer.

“Tax return preparer” means any individual who, for a fee or other consideration, prepares ten or more income tax returns or claims for refund during a calendar year, or who assumes final responsibility

REVENUE DEPARTMENT[701](cont'd)

for completed work on such income tax returns or claims for refund on which preliminary work has been done by another individual.

“Tax return preparer” does not include any of the following:

1. An individual licensed as a certified public accountant or a licensed public accountant under Iowa Code chapter 542 or a similar law of another state.
2. An individual admitted to practice law in this state or another state.
3. An enrolled agent enrolled to practice before the federal IRS pursuant to 31 CFR §10.4.
4. A fiduciary of an estate, trust, or individual, while functioning within the fiduciary’s legal duty and authority with respect to that individual or that estate or trust or its testator, trustor, grantor, or beneficiaries.
5. An individual who prepares the tax returns of the individual’s employer, while functioning within the individual’s scope of employment with the employer.
6. An individual employed by a local, state, or federal government agency, while functioning within the individual’s scope of employment with the government agency.
7. An employee of a tax return preparer, if the employee provides only clerical or other comparable services and does not sign tax returns.

See paragraph 7.36(8) “a” for examples regarding who qualifies as a tax return preparer.

7.36(2) *Penalty for tax return preparer’s failure to include preparer tax identification number (PTIN) on income tax returns or claims for refund.* On or after January 1, 2020, a tax return preparer who fails to include the tax return preparer’s PTIN on any income tax return or claim for refund prepared by the tax return preparer and filed with the department shall pay to the department a penalty of \$50 for each violation, unless the tax return preparer shows that the failure was reasonable under the circumstances and not willful or reckless conduct. The maximum aggregate penalty imposed upon a tax return preparer pursuant to Iowa Code section 421.62 and this rule shall not exceed \$25,000 during any calendar year. See paragraph 7.36(8) “c” for examples pertaining to the tax return preparer PTIN requirement.

7.36(3) *Tax return preparer continuing education requirement.* Beginning January 1, 2020, and every year thereafter, a tax return preparer shall complete a minimum of 15 hours of continuing education courses each year. At least two hours of continuing education shall be on professional ethics, and the remaining hours shall pertain to federal or state income tax. Each course shall be taken from an IRS-approved provider of continuing education. If a course offered by an IRS-approved provider is primarily on state-specific income tax content, the course will qualify for the continuing education requirements under Iowa Code section 421.64 and this rule, even if such course does not count toward federal continuing professional education. Tax return preparers who complete more than the required 15 hours of continuing education in one calendar year may not count the excess hours toward a subsequent year’s requirement. See paragraph 7.36(8) “b” for examples pertaining to the tax return preparer continuing education requirement.

7.36(4) *Preparation of income tax returns or claims for refund.* An individual prepares an income tax return or claim for refund when the individual signs (or should sign) a return, either because the individual completes the return or because the individual assumes final responsibility for preliminary work completed by other individuals.

7.36(5) *Approved providers and courses.*

a. Approved providers of continuing education. Any IRS-approved provider of continuing education is acceptable. It is not mandatory that a continuing education course be taken from an Iowa provider.

b. Approved continuing education course subject matters. All continuing education courses shall be on the topics of federal or state income tax or professional ethics.

c. Approved continuing education format. Continuing education courses that satisfy the requirements of Iowa Code section 421.64 and this rule may be taken for credit in person, online, or by self-study, as long as they are administered by an IRS-approved provider of continuing education.

7.36(6) *Reporting hours of continuing education and retaining records.*

a. Reporting hours of continuing education to the department. Tax return preparers shall report their continuing education hours to the department by February 15 of the calendar year following the year

REVENUE DEPARTMENT[701](cont'd)

in which hours were completed to be eligible to prepare income tax returns or claims for refund. Hours must be reported using IA Form 78-012. If a tax return preparer fails to complete the required minimum hours of continuing education by the date prescribed in this subrule, the individual must show that failure to do so was reasonable under the circumstances and not willful or reckless conduct. IRS-approved providers are not required to report continuing education courses to the department.

b. Retaining records of continuing education. Tax return preparers are required to retain records of continuing education completion for a minimum of five years. This record retention shall include, but is not limited to, certificates of completion if offered by the IRS-approved provider of continuing education upon completion of a course.

7.36(7) Reinstatement of a tax return preparer. When a tax return preparer fails to complete the minimum 15 hours of continuing education courses as required by Iowa Code section 421.64 and this rule but demonstrates that the failure was reasonable under the circumstances and not willful or reckless conduct, the department may require the tax return preparer to make up any uncompleted hours and submit a completed IA Form 78-012 to the department by a date set by the department before the tax return preparer may engage in activity as a tax return preparer.

7.36(8) Examples.

a. Tax return preparer examples.

EXAMPLE 1: During the 2020 calendar year and every prior year, an individual, N, prepares nine or fewer income tax returns or claims for refund described in this rule for a fee or other consideration. During the 2021 calendar year, N, for a fee or other consideration, prepares ten income tax returns or claims for refund described in this rule. N meets the definition of a tax return preparer for the 2021 calendar year. Therefore, N will be subject to the penalty for failure to include N's PTIN on every income tax return or claim for refund described in this rule that N prepares during the 2021 calendar year. However, N also qualifies as a "new tax preparer" for the 2021 calendar year because this is the first year N satisfies the definition of a "tax return preparer." Therefore, N does not need to complete 15 hours of continuing education courses during 2020 to prepare returns in 2021, but N will need to complete the minimum 15 hours of continuing education courses during the 2021 calendar year to be eligible to prepare returns during the 2022 calendar year if N will meet the definition of "tax return preparer" in 2022.

EXAMPLE 2: An individual, B, prepares ten income tax returns or claims for refund described in this rule during the 2019 calendar year for a fee or other consideration. Therefore, B is a tax return preparer. However, B is not required to complete any hours of continuing education courses prior to preparing returns in 2020, nor will B incur a penalty for failing to include B's PTIN on any of those returns prepared in calendar year 2019 because the requirements described in this rule do not take effect until January 1, 2020. Assume B continues to prepare income tax returns or claims for refund described in this rule for a fee or other consideration during the 2020 calendar year, but B only prepares a total of nine such tax returns throughout the entire 2020 calendar year. B does not complete any hours of continuing education courses during the 2020 calendar year. B will not be eligible to prepare ten or more income tax returns or refund claims described in this rule for a fee or other consideration during the 2021 calendar year because even though B did not prepare ten or more income tax returns or claims for refund in 2020, B would have been classified as a tax return preparer in 2019. Thus, B is not considered a new tax preparer for purposes of the 2021 calendar year.

b. Continuing education requirement examples.

EXAMPLE 3: During the 2020 calendar year, an individual, P, prepares ten income tax returns or claims for refund described in this rule for a fee or other consideration. Therefore, P is a tax return preparer. During the 2020 calendar year, P also completes 30 hours of continuing education courses from programs offered by an IRS-approved provider of continuing education, 4 hours of which are on professional ethics and the remaining hours on income tax. P is eligible to prepare returns during the 2021 calendar year. However, P must complete 15 additional hours of continuing education courses offered by an IRS-approved provider, including 2 hours on professional ethics and the remaining hours on income tax, during the 2021 calendar year to be eligible to prepare returns during the 2022 calendar year if P will meet the definition of "tax return preparer" in 2022. P's excess hours completed in 2020

REVENUE DEPARTMENT[701](cont'd)

may not be applied toward the 15 hours of continuing education courses that P must complete in 2021 to be eligible to prepare returns in 2022.

EXAMPLE 4: During the 2020 calendar year, a tax return preparer, P, completes 12 hours of continuing education courses from programs offered by an IRS-approved provider of continuing education. Two of the hours are on professional ethics, and the rest relate to income tax. P is not eligible to prepare income tax returns or claims for refund during the 2021 calendar year, regardless of the year of the returns P is preparing, because P has not completed a total of 15 continuing education hours during the 2020 calendar year. During the 2021 calendar year, P completes 15 hours of continuing education courses from programs offered by an IRS-approved provider. Two of P's hours are from professional ethics courses, and the remaining 13 hours are from income tax courses. P is eligible to prepare returns during the 2022 calendar year, regardless of the years of the returns P prepares. However, P is still ineligible to prepare returns for the remaining duration of the 2021 calendar year, regardless of the years of the returns P wishes to prepare.

c. PTIN requirement examples.

EXAMPLE 5: An individual, X, works at a firm in the business of preparing income tax returns for a fee or other consideration. X completes a substantial amount of preliminary work on ten returns described in this rule during the scope of X's employment (that are not the returns of X's employer) during the 2020 calendar year, but X does not assume final responsibility for the work or sign the returns. Instead, X's supervisor, Y, reviews the work completed by X and signs the returns. Y is a tax return preparer because Y assumed final responsibility for the returns. Therefore, Y's PTIN is required on all of the returns. X's PTIN is not required on any of the returns, nor will X incur any penalties for omitting X's PTIN on the returns.

EXAMPLE 6: An individual, X, has a partnership with another individual, Y, in which X and Y prepare income tax returns for a fee or other consideration. X completes ten returns described in this rule during the 2020 calendar year. However, before X signs or files the returns, X asks Y to review the returns. Y reviews the returns and suggests substantial changes, but Y then gives the returns back to X. X makes the necessary changes, then signs and files the returns. X is a tax return preparer. X's PTIN is required on all of the returns because X assumed final responsibility for the returns. Y's PTIN is not required on any of the returns. If X fails to include X's PTIN on any of the returns, X will incur a \$50 civil penalty for each violation unless X shows that X's failure was reasonable under the circumstances and not willful or reckless conduct.

EXAMPLE 7: An individual, X, completes five income tax returns and five claims for refund described in this rule for a fee or other consideration during the 2020 calendar year. X does not sign the returns, even though no other paid tax return preparer reviewed X's work and took final responsibility for the return. X's PTIN is required on all of the returns because X is a paid tax return preparer for those returns, even though X failed to sign the returns as required. X is subject to a fine of \$50 per return that did not contain the required PTIN because X is a tax return preparer.

This rule is intended to implement Iowa Code sections 421.62, 421.63, and 421.64.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/23/20.

**PUBLIC HEARINGS: POSSIBLE USE OF TELEPHONIC OR
ELECTRONIC FORMAT DUE TO COVID-19**

To protect public health and promote efficient government operations during the COVID-19 outbreak, the format of a public hearing on a notice of intended action (NOIA) scheduled and published in the Iowa Administrative Bulletin (IAB) may be changed, without further publication in the IAB, from an in-person hearing at a physical location to a hearing conducted solely via telephonic or electronic means. For information on whether the format of a public hearing as published in the IAB has changed and how to participate telephonically or electronically in such a hearing, see the Internet site of the relevant agency or contact the agency directly using the contact information published in the NOIA. See also section 113 of the Governor's proclamation of disaster emergency issued September 18, 2020: governor.iowa.gov/sites/default/files/documents/Public%20Health%20Disaster%20Proclamation%20-%202020.09.18.pdf.

CORRECTION TO EFFECTIVE DATE OF ARC 5175C

ARC 5175C, an Adopted and Filed rule making to amend Chapters 77, 78, and 79 of the Department of Human Services' administrative rules, was published in the Iowa Administrative Bulletin (IAB) on September 9, 2020. The Department of Human Services provides this informational notice to correct the erroneous effective date of July 30, 2020, that was published in the preamble of **ARC 5175C**. The correct effective date for **ARC 5175C** is June 1, 2021. This June 1, 2021, date is the effective date that was adopted by the Iowa Council on Human Services on August 11, 2020.