



IOWA ADMINISTRATIVE BULLETIN

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PREFACE

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

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

The Bulletin may also contain public funds interest rates [12C.6]; 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)
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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
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PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
10	Friday, October 16, 2020	November 4, 2020
11	Wednesday, October 28, 2020	November 18, 2020
12	Thursday, November 12, 2020	December 2, 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****

EDUCATIONAL EXAMINERS BOARD[282]

Board address; waivers, amendments to chs 1 to 6, 11 IAB 10/7/20 ARC 5213C	Board Room 701 E. Court Ave., Suite A Des Moines, Iowa	October 28, 2020 1 p.m.
Licensure for out-of-state applicants, 13.5, 13.15, 13.16(1), 18.6, 22.1(2)“d,” 27.2 IAB 10/7/20 ARC 5216C	Board Room 1375 E. Court Ave., Suite A Des Moines, Iowa	December 3, 2020 1 p.m.
Endorsements; authorizations, 13.28, 15.7, 18.5, 18.9(1)“b,” 18.10(2), 18.11(2), 22.12, 23.1, 23.4, 23.5, 27.3(7)“a” IAB 10/7/20 ARC 5212C	Board Room 701 E. Court Ave., Suite A Des Moines, Iowa	October 28, 2020 1 p.m.
Career and technical education instructor qualifications, 22.9(3)“c” IAB 10/7/20 ARC 5215C	Board Room 701 E. Court Ave., Suite A Des Moines, Iowa	October 28, 2020 1 p.m.
Unethical practice, 25.3(6) IAB 10/7/20 ARC 5214C	Board Room 701 E. Court Ave., Suite A Des Moines, Iowa	October 28, 2020 1 p.m.

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Computer science—general accreditation standards, 12.5, 12.11 IAB 10/7/20 ARC 5207C	ICN Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa Via video conference: IDOE.zoom.us/j/98842835917?pwd=djJRYWpESGFY2lLdE5kcVBST3Jjdz09	October 27, 2020 11 a.m. to 12 noon
Senior year plus program—part-time enrollment limitation; summer college credit program, 22.2(2)“b,” 22.6, 22.1, 22.21, 22.33 IAB 10/7/20 ARC 5208C	ICN Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa Via video conference: IDOE.zoom.us/j/98842835917?pwd=djJRYWpESGFY2lLdE5kcVBST3Jjdz09	October 27, 2020 10 to 10:30 a.m.
Community college faculty qualifications, 24.5(1) IAB 10/7/20 ARC 5209C	ICN Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa Via video conference: IDOE.zoom.us/j/98842835917?pwd=djJRYWpESGFY2lLdE5kcVBST3Jjdz09	October 27, 2020 10:30 to 11

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Agricultural production; silviculture; aquaculture; plants, 211.1, 226.12, 226.18 IAB 10/7/20 ARC 5218C	Room 430, Fourth Floor Hoover State Office Bldg. Des Moines, Iowa	October 27, 2020 10 to 11 a.m. (If requested)

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)
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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Electric lines, 11.2, 11.3(3), 11.5(1)“d”(6) IAB 10/7/20 ARC 5217C	Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa	December 3, 2020 9 a.m. to 12 noon (If requested)
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

The following list will be updated as changes occur.

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

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

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

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ALCOHOLIC BEVERAGES DIVISION[185]

Notice of Intended Action

Proposing rule making related to filling and sale of mixed drinks or cocktails in a container other than the original and providing an opportunity for public comment

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

Legal Authority for Rule Making

This rule making is proposed under the authority provided in 2020 Iowa Acts, House File 2540.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 123.30, 123.43A and 123.49.

Purpose and Summary

This rule making proposes a new rule establishing how a container other than the original container shall be filled with a mixed drink or cocktail, 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” and class “C” native distilled spirits liquor control licensees.

The Department of Transportation and the Department of Public Safety were consulted in the writing of this rule. The two departments are responsible for cooperating to ensure the proper and adequate enforcement of Iowa Code chapter 321, “Motor Vehicles and Law of the Road,” which establishes Iowa’s open container laws. The Department of Public Safety is also the primary alcoholic beverage control law enforcement authority in Iowa, pursuant to Iowa Code section 123.14.

The Department of Transportation advised the Division on the types of allowable container-sealing methods that would demonstrate an effort to comply with state and federal open container laws. The Department recommended that the sealing methods be precisely described in the rule because vague or undefined sealing methods could jeopardize millions of dollars of federal highway funds allocated to the State of Iowa. According to a notice issued July 1, 2020, by the U.S. Department of Transportation Federal Highway Administration, over \$541 million was allocated to Iowa in federal FY 2020 under the Fixing America’s Surface Transportation (FAST) Act. Transfer or withholding penalties are applied to states that are found to be in noncompliance with federal open container requirements (23 U.S.C. §154). Iowa was not assessed any penalties for open container requirement noncompliance in federal FY 2020. The Division believes that the rule, as written, should not lead to any future findings of noncompliance.

The Department of Public Safety advised the Division on the types of containers that should not be allowed to be used in the sale of mixed drinks and cocktails to go. The Department recommended that paper, plastic, and Styrofoam cups be prohibited due to the ease of use or access the containers provide and the ability for consumers to conceal consumption while driving, which the Department felt would pose serious dangers to the motoring public and hamper the Department’s enforcement efforts. The rule prohibits all paper and Styrofoam cups from being used, and prohibits plastic cups that are intended for single use only. Plastic cups that are intended to be reused by a consumer are not prohibited.

Additionally, the Division requested from the Iowa Restaurant Association examples of the containers and sealing methods being used by licensees in the marketplace. Two examples were provided by the Association, and those examples were incorporated into the rule making in paragraphs 4.10(3)“b” and 4.10(3)“c.”

Finally, the Iowa Alliance of Coalitions for Change, a group of public health and substance misuse experts from across the state, submitted a letter and proposals to be considered for the rule. Some of the recommendations exceeded what the Division felt to be within its rule-making authority; however, a recommendation to require labeling on the container clearly marking the contents as containing alcohol

ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

was accepted. The Department of Public Safety also supported a labeling requirement, indicating that the requirement would assist in its roadside enforcement efforts. As such, a labeling requirement was included in the rule making in subrule 4.10(4).

The Division crafted this rule based on the recommendations of key state agency partners. Stakeholder feedback was also incorporated into the rule. Overall, the Division feels that this rule is reasonable and balances the legal and social responsibilities of protecting the public with the business needs of licensees.

Fiscal Impact

This rule making has a potential fiscal impact to the State of Iowa. According to the Iowa Department of Transportation, approximately \$12.2 million in federal funds appropriated to Iowa under the FAST Act could be jeopardized if Iowa is found to be noncompliant with the federal open container requirements found in 23 U.S.C. §154. This rule making, as written, precisely describes the sealing methods to be used when mixed drinks and cocktails are sold to go so that the sealed containers are not considered open containers. Vague or undefined sealing methods increase the potential for Iowa to be found noncompliant with 23 U.S.C. §154. The fiscal impact of this rule making to class “C” and class “C” native distilled spirits liquor control licensees is indeterminable.

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.

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 Division no later than 4:30 p.m. on October 27, 2020. Comments should be directed to:

Tyler Ackerson
Iowa Alcoholic Beverages Division
1918 SE Hulsizer Road
Ankeny, Iowa 50021
Email: ackerson@iowaabd.com

Public Hearing

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

Review by Administrative Rules Review Committee

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

ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

Emergency Rule Making Adopted by Reference

This proposed rule making is also published herein as an Adopted and Filed Emergency rule making (see **ARC 5221C**, IAB 10/7/20). The purpose of this Notice of Intended Action is to solicit public comment on that emergency rule making, whose subject matter is hereby adopted by reference.

ARC 5211C**BANKING DIVISION[187]****Notice of Intended Action****Proposing rule making related to waivers and providing an opportunity for public comment**

The Iowa Division of Banking hereby proposes to amend Chapter 12, “Uniform Waiver and Variance Rules,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 17A.3 and 524.213.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 17A and 524.

Purpose and Summary

The proposed amendments revise the Division’s rules regarding uniform waiver and variance procedures. In 2020, the Legislature adopted House File 2389, which amends Iowa Code chapter 17A to remove the term “variance” and ensures that chapters about waiver procedures refer only to “waivers.” The proposed amendments respond to the changes made by House File 2389 and revise the Division’s existing rules for waiver and variance to refer only to waivers of administrative rules.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa because no existing fees are being changed and no new fees are being added.

Jobs Impact

The Division has concluded that the proposed amendments will have no impact on jobs in Iowa because no existing authorized activities are being restricted, no new activities are being authorized, no existing fees are being increased, and no new fees are being added.

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 187—Chapter 12.

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 Division no later than 4:30 p.m. on October 27, 2020. Comments should be directed to:

BANKING DIVISION[187](cont'd)

Zak Hingst
 Iowa Division of Banking
 200 East Grand Avenue, Suite 300
 Des Moines, Iowa 50309-1827
 Phone: 515.281.4014
 Email: zak.hingst@idob.state.ia.us

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend **187—Chapter 12**, title, as follows:

UNIFORM WAIVER AND VARIANCE RULES

ITEM 2. Amend rules 187—12.1(17A,524) to 187—12.3(17A,524) as follows:

187—12.1(17A,524) Scope of chapter. This chapter outlines a uniform process for the granting of waivers ~~or variances~~ from rules adopted by the superintendent in situations where no other more specifically applicable law provides for waivers. The intent of this chapter is to allow persons to seek exceptions to the application of rules issued by the superintendent. This chapter shall not apply to rules that merely define the meaning of a statute or other provision of law or precedent if the division does not possess delegated authority to bind the courts to any extent with its definition. To the extent another more specific provision of law governs the issuance of a waiver from a particular rule, the more specific provision shall supersede this chapter with respect to any waiver from that rule.

12.1(1) Definitions.

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

“*Superintendent*” means the superintendent of banking appointed by the governor to direct and regulate banks pursuant to Iowa Code chapter 524.

“*Waiver ~~or variance~~*” means 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.

12.1(2) Applicability.

a. The superintendent may grant a waiver ~~or variance~~ from a rule adopted by the superintendent only if (1) the superintendent has jurisdiction over the rule; (2) no statute or rule otherwise controls the granting of a waiver ~~or variance~~ from the rule from which waiver ~~or variance~~ is requested; and (3) the requested waiver ~~or variance~~ is consistent with applicable statutes, constitutional provisions, or other provisions of law.

b. No waiver ~~or variance~~ may be granted from a requirement which is imposed by statute.

187—12.2(17A,524) Superintendent discretion. The decision on whether the circumstances justify the granting of a waiver ~~or variance~~ shall be made at the discretion of the superintendent upon consideration

BANKING DIVISION[187](cont'd)

of all relevant factors. Each petition for a waiver ~~or variance~~ shall be evaluated by the superintendent based on the unique, individual circumstances set out in the petition.

12.2(1) *Criteria for waiver ~~or variance~~.* The superintendent may, in response to a completed petition or on the superintendent's own motion, grant a waiver ~~or variance~~ from a rule, in whole or in part, as applied to the circumstances of a specified situation if the superintendent finds all of the following:

- a. The application of the rule would result in an undue hardship on the person for whom the waiver ~~or variance~~ is requested;
- b. The waiver ~~or variance~~ from the requirements of the rule in the specific case would not prejudice the substantial legal rights of any person;
- c. The provisions of the rule subject to the petition for waiver are not specifically mandated by statute or another provision of law; and
- d. 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 ~~or variance~~ is requested.

In determining whether a waiver ~~or variance~~ should be granted, the superintendent shall consider the public interest, policies and legislative intent of the statute on which the rule is based. When the rule from which a waiver ~~or variance~~ is sought establishes administrative deadlines, the superintendent shall balance the special individual circumstances of the petitioner with the overall goal of uniform treatment of all similarly situated persons.

12.2(2) *Special waiver ~~or variance~~ rules not precluded.* These uniform waiver ~~and variance~~ rules shall not preclude the superintendent from granting waivers ~~or variances~~ in other contexts if a statute or other rule authorizes the superintendent to do so and the superintendent deems it appropriate to do so.

187—12.3(17A,524) Requester's responsibilities in filing a waiver ~~or variance~~ petition.

12.3(1) *Application.* All petitions for waiver ~~or variance~~ must be submitted in writing to the Banking Division, 200 East Grand Avenue, Suite 300, Des Moines, Iowa 50309. If the petition relates to a pending contested case, a copy of the petition shall also be filed in the contested case proceeding.

12.3(2) *Content of petition.* A petition for waiver ~~or variance~~ shall include the following information where applicable and known to the requester (for an example of a petition for waiver ~~or variance~~, see Exhibit A at the end of this chapter):

- a. A description and citation of the specific rule from which a waiver ~~or variance~~ is requested.
- b. The specific waiver ~~or variance~~ requested, including the precise scope and operative period that the waiver ~~or variance~~ will extend.
- c. The relevant facts that the petitioner believes would justify a waiver ~~or variance~~ under each of the four criteria specified in subrule 12.2(1).
- d. A signed statement from the petitioner attesting to the accuracy of the facts provided in the petition and a statement of reasons that the petitioner believes will justify a waiver ~~or variance~~.
- e. A history of any prior contacts between the superintendent and the petitioner relating to the regulated activity, license, grant, loan or other financial assistance affected by the proposed waiver ~~or variance~~, including a description of each affected license, grant, loan or other financial assistance held by the requester, any notices of violation, contested case hearings, or investigative or examination reports relating to the regulated activity, license, grant or loan within the past five years.
- f. Any information known to the requester regarding the treatment of similar cases by the superintendent.
- g. The name, address, and telephone number of any public agency or political subdivision which also regulates the activity in question or which might be affected by the granting of a waiver ~~or variance~~.
- h. The name, address, and telephone number of any person or entity that would be adversely affected by the granting of a petition.
- i. The name, address, and telephone number of any person with knowledge of the relevant facts relating to the proposed waiver ~~or variance~~.
- j. Signed releases of information authorizing persons with knowledge regarding the request to furnish the superintendent with information relevant to the waiver ~~or variance~~.

BANKING DIVISION[187](cont'd)

12.3(3) *Burden of persuasion.* When a petition is filed for a waiver ~~or variance~~ from a rule, the burden of persuasion shall be on the petitioner to demonstrate by clear and convincing evidence that the superintendent should exercise the superintendent's discretion to grant the petitioner a waiver ~~or variance~~.

ITEM 3. Amend rules 187—12.5(17A,524) to 187—12.11(17A,524) as follows:

187—12.5(17A,524) Superintendent's responsibilities regarding petition for waiver ~~or variance~~.

12.5(1) *Additional information.* Prior to issuing an order granting or denying a waiver ~~or variance~~, the superintendent may request additional information from the petitioner relative to the petition and surrounding circumstances. If the petition was not filed in a contested case, the superintendent may, on the superintendent's own motion or at the petitioner's request, schedule a telephonic or in-person meeting between the petitioner and the superintendent or the superintendent's designee.

12.5(2) *Hearing procedures.* The provisions of Iowa Code sections 17A.10 to 17A.18A regarding contested case hearings shall apply in three situations: (a) to any petition for a waiver ~~or variance~~ of a rule filed within a contested case; (b) when the superintendent so provides by rule or order; or (c) when a statute so requires.

12.5(3) *Ruling.* An order granting or denying a waiver ~~or variance~~ shall be in writing and shall contain a reference to the particular person and rule or portion thereof to which the order pertains, a statement of the relevant facts and reasons upon which the action is based, and a description of the precise scope and operative period of the waiver if one is issued.

12.5(4) *Conditions.* The superintendent may place any condition on a waiver ~~or variance~~ that the superintendent finds desirable to protect the public health, safety, and welfare.

12.5(5) *Narrowly tailored exception.* A waiver, if granted, shall provide the narrowest exception possible to the provisions of a rule.

12.5(6) *Time period of waiver.* A waiver shall not be permanent unless the petitioner can show that a temporary waiver would be impracticable. If a temporary waiver is granted, there is no automatic right to renewal. At the sole discretion of the superintendent, a waiver may be renewed if the superintendent finds that grounds for a waiver continue to exist.

12.5(7) *Time for ruling.* The superintendent shall grant or deny a petition for a waiver ~~or variance~~ as soon as practicable but, in any event, shall do so within 120 days of its receipt, unless the petitioner agrees to a later date. However, if a petition is filed in a contested case, the superintendent shall grant or deny the petition no later than the time at which the final decision in that contested case is issued.

12.5(8) *When deemed denied.* Failure of the superintendent to grant or deny a petition within the required time period shall be deemed a denial of that petition by the superintendent.

12.5(9) *Service of order.* Within seven days of its issuance, any order issued under this chapter shall be transmitted to the petitioner or the person to whom the order pertains and to any other person entitled to such notice by any provision of law.

187—12.6(17A,524) Public availability. All orders granting or denying waivers ~~and variances~~ under this chapter shall be indexed, filed and available for public inspection as provided in Iowa Code section 17A.3. Petitions for a waiver ~~or variance~~ and orders granting or denying a waiver ~~or variance~~ petition are public records under Iowa Code chapter 22. Some petitions or orders may contain information that the superintendent is authorized or required to keep confidential. The superintendent may accordingly redact confidential information from petitions or orders prior to public inspection.

187—12.7(17A,524) Voiding or cancellation. A waiver ~~or variance~~ is void if the material facts upon which the request or petition is based are not true or if material facts have been withheld. A waiver ~~or variance~~ issued by the superintendent pursuant to this chapter may be withdrawn, canceled, or modified if, after appropriate notice and opportunity for hearing, the superintendent issues an order finding any of the following:

1. The petitioner or the person who was the subject of the waiver order withheld or misrepresented material facts relevant to the propriety or desirability of the waiver; or

BANKING DIVISION[187](cont'd)

- 2. The alternative means for ensuring that the public health, safety and welfare will be adequately protected after issuance of the waiver order have been demonstrated to be insufficient; or
- 3. The subject of the waiver order has failed to comply with any conditions contained in the order.

187—12.8(17A,524) Violations. Violation of conditions in the waiver or variance order is the equivalent of violation of the particular rule for which the waiver or variance is granted and is subject to the same remedies or penalties.

187—12.9(17A,524) Defense. After the superintendent issues an order granting a waiver or variance, the order is a defense within its terms and the specific facts indicated therein for the person to whom the order pertains in any proceeding in which the rule in question is sought to be invoked.

187—12.10(17A,524) Appeals. Granting or denying a request for waiver or variance is final agency action under Iowa Code chapter 17A. An appeal to district court shall be taken within 30 days of the issuance of the order in response to the request unless a contrary time is provided by rule or statute.

187—12.11(17A,524) Summary reports. ~~Semiannually~~ Within 60 days of granting or denying a waiver, the superintendent shall ~~prepare a summary report identifying~~ make a submission on the Internet site established pursuant to Iowa Code section 17A.9A for the submission of waiver information. The submission shall identify 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 superintendent’s actions on waiver requests. If practicable, the ~~report~~ submission shall detail the extent to which the granting of a waiver has established a precedent for additional waivers and 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.~~

Exhibit A

Sample Petition (Request) for Waiver/~~Variance~~

BEFORE THE SUPERINTENDENT OF BANKING

Petition by (insert name of petitioner) for the waiver of (insert rule citation) relating to (insert the subject matter).	}	PETITION FOR WAIVER
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A request for waiver or variance from a rule adopted by the superintendent shall include the following information in the petition for waiver or variance where applicable and known:

- a. Provide the petitioner’s (person asking for a waiver or variance) name, address, and telephone number.
- b. Describe and cite the specific rule from which a waiver or variance is requested.
- c. Describe the specific waiver or variance requested; include the exact scope and operative time period that the waiver or variance will extend.
- d. Explain the important facts that the petitioner believes justify a waiver or variance. Include in your answer (1) why applying the rule will result in undue hardship on the petitioner; and (2) how granting the waiver or variance will not prejudice the substantial legal rights of any person; and (3) that the provisions of the rule subject to the petition for waiver are not specifically mandated by statute or another provision of law; and (4) where applicable, 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 or variance is requested.
- e. Provide a history of prior contacts between the superintendent and petitioner relating to the regulated activity, license, grant, loan or other financial assistance that would be affected by the waiver

BANKING DIVISION[187](cont'd)

~~or variance~~; include a description of each affected license, grant, loan or other financial assistance held by the petitioner, any notices of violation, contested case hearings, or investigative or examination reports relating to the regulated activity, license, grant or loan within the past five years.

f. Provide information known to the petitioner regarding the treatment by the superintendent of similar cases.

g. Provide the name, address, and telephone number of any public agency or political subdivision which also regulates the activity in question or which might be affected by the granting of a waiver ~~or variance~~.

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

i. Provide the name, address, and telephone number of any person with knowledge of the relevant or important facts relating to the requested waiver ~~or variance~~.

j. Provide signed releases of information authorizing persons with knowledge regarding the request to furnish the superintendent with information relevant to the waiver ~~or variance~~.

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

 Petitioner's signature

 Date

Petitioner should note the following when requesting or petitioning for a waiver ~~or variance~~:

1. The petitioner has the burden of proving to the superintendent, by clear and convincing evidence, the following: (a) application of the rule to the petitioner would result in an undue hardship on the petitioner; and (b) waiver ~~or variance~~ in the specific case would not prejudice the substantial legal rights of any person; and (c) the provisions of the rule subject to the petition for waiver are not specifically mandated by statute or another provision of law; and (d) where applicable, 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 ~~or variance~~ is requested.

2. The superintendent may request additional information from or request an informal meeting with the petitioner prior to issuing a ruling granting or denying a request for waiver ~~or variance~~.

3. All petitions for waiver ~~or variance~~ must be submitted in writing to the Banking Division, 200 East Grand Avenue, Suite 300, Des Moines, Iowa 50309. If the petition relates to a pending contested case, a copy of the petition shall also be filed in the contested case proceeding.

ARC 5209C

EDUCATION DEPARTMENT[281]

Notice of Intended Action

Proposing rule making related to community college faculty and providing an opportunity for public comment

The State Board of Education hereby proposes to amend Chapter 24, "Community College Accreditation," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 256.7(5).

State or Federal Law Implemented

This rule making implements, in whole or in part, 2020 Iowa Acts, House File 2454.

EDUCATION DEPARTMENT[281](cont'd)

Purpose and Summary

This proposed rule making revises minimum community college faculty qualifications, as required by 2020 Iowa Acts, House File 2454.

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 State Board for a waiver of the discretionary provisions, if any, pursuant to 281—Chapter 4.

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 27, 2020. Comments should be directed to:

Thomas Mayes
Department of Education
Grimes State Office Building, Second Floor
400 East 14th Street
Des Moines, Iowa 50319-0146
Phone: 515.242.5614
Email: thomas.mayes@iowa.gov

Public Hearing

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

October 27, 2020
10:30 to 11 a.m.

ICN Room, Second Floor
Grimes State Office Building
Des Moines, Iowa
Via video conference:
[IDOE.zoom.us/j/98842835917?pwd=djJRYWpESGFGY2lLdE5kcVBST3Jjdz09](https://doe.zoom.us/j/98842835917?pwd=djJRYWpESGFGY2lLdE5kcVBST3Jjdz09)

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 by calling 515.281.5295.

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).

EDUCATION DEPARTMENT[281](cont'd)

The following rule-making action is proposed:

Amend subrule 24.5(1) as follows:

24.5(1) Faculty.

a. Community college-employed instructors who teach college credit courses shall meet minimum standards and institutional quality faculty plan requirements. Standards shall at a minimum require that all community college instructors meet the following requirements:

(1) Instructors teaching courses in the area of career and technical education shall be registered, certified, or licensed in the occupational area in which the state requires registration, certification, or licensure and shall meet ~~either~~ at least one of the following qualifications:

1. Possess a baccalaureate degree or higher in the field of instruction in which the instructor is teaching teaches classes, or possesses a baccalaureate degree in any area of study if at least 18 of the credit hours completed were in the career and technical field of instruction in which the instructor teaches classes.

2. Possess an associate degree in the career and technical education field of instruction in which the instructor is teaching, if such degree is considered terminal for that field of instruction, and have at least 3,000 hours of recent and relevant work experience in the occupational area or related occupational area in which the instructor teaches classes.

~~2. 3. Possess a combination of education, Have special training, and at least 6,000 hours of relevant tested experience in the field of instruction occupational area or related occupational area in which the instructor teaches classes. If if the instructor possesses less than a baccalaureate degree in the area or related area of study or occupational area in which the instructor is teaching classes and the instructor does not meet the requirements of subparagraph 24.5(1)“a”(2).~~

(2) For purposes of paragraphs 24.5(1)“a”(1)“2” and “3,” if the instructor is a licensed practitioner who holds a career and technical endorsement under Iowa Code chapter 272, relevant work experience in the occupational area includes, but is not limited to, classroom instruction in a career and technical education subject area offered by a school district or accredited nonpublic school.

~~(2) (3)~~ Instructors in the area of arts and sciences shall meet one of the following qualifications:

1. to 3. No change.

b. and c. No change.

ARC 5207C

EDUCATION DEPARTMENT[281]

Notice of Intended Action

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

The State Board of Education hereby proposes to amend Chapter 12, “General Accreditation Standards,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 256.7(5).

State or Federal Law Implemented

This rule making implements, in whole or in part, 2020 Iowa Acts, House File 2629, division III.

Purpose and Summary

This proposed rule making implements 2020 Iowa Acts, House File 2629, division III. It adds computer science to the general accreditation standards and requires school districts and schools to develop and implement a computer science plan by July 1, 2022, that implements those standards.

EDUCATION DEPARTMENT[281](cont'd)

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the State Board for a waiver of the discretionary provisions, if any, pursuant to 281—Chapter 4.

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 27, 2020. Comments should be directed to:

Thomas Mayes
Department of Education
Grimes State Office Building, Second Floor
400 East 14th Street
Des Moines, Iowa 50319-0146
Phone: 515.242.5614
Email: thomas.mayes@iowa.gov

Public Hearing

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

October 27, 2020
11 a.m. to 12 noon

ICN Room, Second Floor
Grimes State Office Building
Des Moines, Iowa
Via video conference:
[IDOE.zoom.us/j/98842835917?pwd=djJRYWpESGFY2lLdE5kcVBST3Jjdz09](https://doe.zoom.us/j/98842835917?pwd=djJRYWpESGFY2lLdE5kcVBST3Jjdz09)

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 by calling 515.281.5295.

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:

EDUCATION DEPARTMENT[281](cont'd)

ITEM 1. Amend rule 281—12.5(256) as follows:

281—12.5(256) Education program. The following education program standards shall be met by schools and school districts for accreditation with the start of the 1989-1990 school year.

12.5(1) and 12.5(2) No change.

12.5(3) Elementary program, grades 1-6. The following areas shall be taught in grades one through six: English-language arts, social studies, mathematics, science, health, human growth and development, physical education, traffic safety, music, and visual art. Computer science instruction incorporating the standards established under rule 281—12.11(256) shall be offered in at least one grade level commencing with the school year beginning July 1, 2023.

In implementing the elementary program standards, the following general curriculum definitions shall be used.

a. to i. No change.

12.5(4) Junior high program, grades 7 and 8. The following shall be taught in grades 7 and 8: English-language arts, social studies, mathematics, science, health, human growth and development, physical education, music, visual art, family and consumer education, career education, and technology education. Instruction in the following areas shall include the contributions and perspectives of persons with disabilities, both men and women, and persons from diverse racial and ethnic groups, and shall be designed to eliminate career and employment stereotypes. Computer science instruction incorporating the standards established under rule 281—12.11(256) shall be offered in at least one grade level commencing with the school year beginning July 1, 2023.

In implementing the junior high program standards, the following general curriculum definitions shall be used.

a. to l. No change.

12.5(5) High school program, grades 9-12. In grades 9 through 12, a unit is a course or equivalent related components or partial units taught throughout the academic year as defined in subrule 12.5(14). The following shall be offered and taught as the minimum program: English-language arts, six units; social studies, five units; mathematics, six units as specified in 12.5(5)“c”; science, five units; health, one unit; physical education, one unit; fine arts, three units; world language, four units; and vocational education, 12 units as specified in 12.5(5)“i.” Beginning with the 2010-2011 school year graduating class, all students in schools and school districts shall satisfactorily complete at least four units of English-language arts, three units of mathematics, three units of science, three units of social studies, and one full unit of physical education as conditions of graduation. The three units of social studies may include the existing graduation requirements of one-half unit of United States government and one unit of United States history.

In implementing the high school program standards, the following curriculum standards shall be used.

a. to k. No change.

l. Computer science (one-half unit). Commencing with the school year beginning July 1, 2022, the one-half unit of computer science shall incorporate the standards established under rule 281—12.11(256) and may be offered online in accordance with 281—Chapter 15.

12.5(6) to 12.5(21) No change.

ITEM 2. Amend rule 281—12.11(256) as follows:

281—12.11(256) High-quality standards for computer science. It is the goal of the state board of education that every school district and every accredited nonpublic school shall offer instruction in high-quality computer science for elementary, middle school, and high school students by July 1, 2019.

12.11(1) Alignment with learning framework or standards developed by a nationally recognized computer science education organization or organizations. Beginning with the school year which begins July 1, 2018, and each school year thereafter, instruction in high-quality computer science shall reflect an alignment with a framework or learning standards developed by a nationally recognized computer

EDUCATION DEPARTMENT[281](cont'd)

science education organization or organizations. The department shall make available to school districts and accredited nonpublic schools such a framework or learning standards.

12.11(2) Professional development incentive fund. A computer science professional development incentive fund is established in the state treasury under the control of the department. The department may accept gifts, grants, bequests, and other private contributions, as well as state or federal moneys, for deposit in the fund. The department may disburse moneys contained in the fund for professional development activities or tuition reimbursement. Notwithstanding Iowa Code section 8.33, moneys in the computer science professional development incentive fund that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year. The department may disburse those moneys in the following ways.

a. A school district or accredited nonpublic school, or a collaborative of one or more school districts, accredited nonpublic schools, and area education agencies, may apply to the department, in the manner prescribed by the department, to receive moneys from the fund to provide proven professional development activities for Iowa teachers in the area of computer science education.

b. A school district or accredited nonpublic school may apply to the department, in the manner prescribed by the department, to receive moneys from the fund to provide tuition reimbursement for Iowa teachers seeking endorsements or authorizations for computer science under Iowa Code section 272.2(20).

12.11(3) Applicability of rules. ~~Subrule 12.11(1)~~ Until July 1, 2021, subrule 12.11(1) shall only apply to school districts and accredited nonpublic schools receiving moneys from the computer science professional development incentive fund established in Iowa Code section 284.6A and described in subrule 12.11(2).

12.11(4) Computer science plan. The board of directors of each public school district and the authorities in charge of each nonpublic school shall develop and implement a kindergarten through grade 12 computer science plan by July 1, 2022, which incorporates the standards established under subrule 12.11(1), and the minimum educational standards relating to computer science contained in subrules 12.5(3) and 12.5(4) and paragraph 12.5(5)“l.”

ARC 5208C

EDUCATION DEPARTMENT[281]

Notice of Intended Action

**Proposing rule making related to senior year plus program
and providing an opportunity for public comment**

The State Board of Education hereby proposes to amend Chapter 22, “Senior Year Plus Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 256.7(5).

State or Federal Law Implemented

This rule making implements, in whole or in part, 2020 Iowa Acts, House File 2629, division V.

Purpose and Summary

This proposed rule making updates Iowa’s Senior Year Plus Program by removing the limitation to part-time enrollment, as required by 2020 Iowa Acts, House File 2629. This rule making also makes updates to the Summer College Credit Program.

EDUCATION DEPARTMENT[281](cont'd)

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the State Board for a waiver of the discretionary provisions, if any, pursuant to 281—Chapter 4.

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 27, 2020. Comments should be directed to:

Thomas Mayes
Department of Education
Grimes State Office Building, Second Floor
400 East 14th Street
Des Moines, Iowa 50319-0146
Phone: 515.242.5614
Email: thomas.mayes@iowa.gov

Public Hearing

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

October 27, 2020
10 to 10:30 a.m.

ICN Room, Second Floor
Grimes State Office Building
Des Moines, Iowa
Via video conference:
[IDOE.zoom.us/j/98842835917?pwd=djJR
YWpESGFY21LdE5kcVBST3Jkdz09](https://doe.zoom.us/j/98842835917?pwd=djJRYWpESGFY21LdE5kcVBST3Jkdz09)

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 by calling 515.281.5295.

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:

EDUCATION DEPARTMENT[281](cont'd)

ITEM 1. Amend paragraph **22.2(2)“b”** as follows:

b. The student shall have demonstrated proficiency in all of the content areas of reading, mathematics, and science as evidenced by achievement scores on the most recent administration of the ~~Iowa assessments~~ statewide assessment for which scores are available for the student. If the student was absent for the most recent administration of the ~~Iowa assessments~~ statewide assessment, and such absence was not excused by the student's school of enrollment, the student is deemed not to be proficient in any of the content areas. The school district may determine whether such student is eligible for qualification under an equivalent qualifying performance measure.

(1) and (2) No change.

(3) A student under competent private instruction shall meet the same proficiency standard as students in the school district in which the student is dually enrolled and shall have the approval of the school board in that school district to register for the postsecondary course. In lieu of ~~Iowa assessments~~ statewide assessment scores as the state assessment, a school district shall allow a student under competent private instruction to demonstrate proficiency in reading, mathematics, and science by any one of the following means:

1. to 6. No change.

ITEM 2. Rescind the definitions of “Full time” and “Part time” in rule **281—22.6(261E)**.

ITEM 3. Amend rule 281—22.11(261E) as follows:

281—22.11(261E) Applicability. The concurrent enrollment program, also known as district-to-community college sharing, promotes rigorous academic or career and technical pursuits by providing opportunities to high school students to enroll ~~part-time~~ in eligible nonsectarian courses at or through community colleges established under Iowa Code chapter 260C.

22.11(1) and **22.11(2)** No change.

22.11(3) A student may make application to a community college and the school district to allow the student to enroll for college credit in a nonsectarian course offered by the community college. A comparable course, as defined in rules adopted by the board of directors of the school district, must not be offered by the school district or accredited nonpublic school which the student attends. The school board shall annually approve courses to be made available for high school credit using locally developed criteria that establish which courses will provide the student with academic rigor and will prepare the student adequately for transition to a postsecondary institution. A school district may not use concurrent enrollment courses to meet the accreditation requirements, except as provided in Division V of 281—Chapter 12 ~~other than for career technical courses~~.

22.11(4) to **22.11(7)** No change.

ITEM 4. Rescind subrule **22.21(2)**.

ITEM 5. Renumber subrule **22.21(3)** as **22.21(2)**.

ITEM 6. Rescind paragraph **22.33(2)“d.”**

ITEM 7. Amend paragraph **22.33(3)“a”** as follows:

a. *Minimum components.* The proposal shall detail the following components.

(1) A program description, including the course or courses to be made available through the program; total number of credit hours; additional cocurricular experiences and activities including project-, problem-, and work-based learning opportunities; additional support services to be made available through the program; and any other pertinent program information.

~~(2) All minimum and required costs associated with offering the program, including, but not limited to, instructor salary, materials and supplies, and overhead costs.~~

~~(3) (2)~~ The total number of students that the program is capable of serving.

~~(4) Any additional components and expenses built into the program, including but not limited to student transportation, academic supports, and extracurricular experiences.~~

~~(5) (3)~~ The start date and duration of the program. ~~Programs approved under this rule shall have a start date no later than the second Friday in June of each year.~~

EDUCATION DEPARTMENT[281](cont'd)

ITEM 8. Amend paragraph **22.33(4)“a”** as follows:

a. Base funding. ~~Not more than one half of the total allocation shall be made available to fund proposals approved under subrule 22.33(3).~~ The amount of funds reserved for base funding as specified in paragraph 22.33(4)“c” shall be distributed equally between approved programs.

ITEM 9. Amend subparagraph **22.33(4)“b”(2)** as follows:

(2) Enrollment funding shall be calculated by the department for each program with enrollment greater than the minimum enrollment threshold. For purposes of this rule, the portion of enrollment funding to be received by a postsecondary institution offering an approved program shall be equal to the total number of credits for all student enrollment in the approved program divided by the total number of credits for all student enrollments statewide.

ARC 5213C

EDUCATIONAL EXAMINERS BOARD[282]

Notice of Intended Action

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

The Educational Examiners Board hereby proposes to amend Chapter 1, “General,” Chapter 2, “Petitions for Rule Making,” Chapter 3, “Declaratory Orders,” Chapter 4, “Agency Procedure for Rule Making,” Chapter 5, “Public Records and Fair Information Practices,” Chapter 6, “Waivers or Variances from Administrative Rules,” and Chapter 11, “Complaints, Investigations, Contested Case Hearings,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 272.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 272.2 and 2020 Iowa Acts, House File 2389.

Purpose and Summary

The proposed amendments update the Board’s address in various chapters and update language regarding waivers pursuant to 2020 Iowa Acts, House File 2389.

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 282—Chapter 6.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on October 30, 2020. Comments should be directed to:

Kimberly Cunningham
Board of Educational Examiners
701 East Court Avenue, Suite A
Des Moines, Iowa 50319-0147
Fax: 515.281.7669
Email: kim.cunningham@iowa.gov

Public Hearing

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

October 28, 2020
1 p.m.

Board Room
701 East Court Avenue, Suite A
Des Moines, Iowa

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

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rule 282—1.2(272,17A) as follows:

282—1.2(272,17A) Organization and method of operation.

1.2(1) to 1.2(4) No change.

1.2(5) *Conduct of business.* The ordinary business of the board is conducted at its regular meetings generally held at ~~the Grimes State Office Building~~, 701 East Court Avenue, Suite A, Des Moines, Iowa 50309.

a. to i. No change.

j. Information, submissions or requests. General inquiries regarding the board, requests for forms and other documents and all other requests and submissions may be addressed to the Executive Director, Board of Educational Examiners, ~~Grimes State Office Building, Des Moines, Iowa 50319-0147~~ 701 East Court Avenue, Suite A, Des Moines, Iowa 50309.

This rule is intended to implement Iowa Code chapter 272.

ITEM 2. Amend **282—Chapter 2** as follows:

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

The board of educational examiners hereby adopts the petitions for rule making segments of the Uniform Administrative Rules which are ~~printed in the first volume of the Iowa Administrative Code~~ published at www.legis.iowa.gov/docs/publications/ACOD/767403.pdf on the General Assembly's website, with the following amendments:

282—2.1(17A) Petition for rule making. In lieu of the words “(designate office)”, insert “The Board of Educational Examiners, ~~Grimes State Office Building, third floor~~ 701 East Court Avenue, Suite A, Des Moines, Iowa 50309”. In lieu of the words “(AGENCY NAME)”, the heading on the petition form should read:

“BOARD OF EDUCATIONAL EXAMINERS”

282—2.3(17A) Inquiries. Inquiries concerning the status of a petition for rule making may be made to the Executive Director of the Board of Educational Examiners, ~~Grimes State Office Building, Des Moines, Iowa 50319-0147~~ 701 East Court Avenue, Suite A, Des Moines, Iowa 50309.

These rules are intended to implement Iowa Code section 17A.7.

ITEM 3. Amend **282—Chapter 3**, preamble, as follows:

The board of educational examiners hereby adopts the declaratory orders segment of the Uniform Rules on Agency Procedure ~~printed in the first volume of the Iowa Administrative Code~~ published at www.legis.iowa.gov/docs/publications/ACOD/767403.pdf on the General Assembly's website, with the following amendments:

ITEM 4. Amend rule 282—3.1(17A) as follows:

282—3.1(17A) Petition for declaratory order. Throughout the rule, in lieu of the words “(designate agency)”, insert “the Board of Educational Examiners, ~~Grimes State Office Building~~ 701 East Court Avenue, Suite A, Des Moines, Iowa 50309”. In lieu of the words “(AGENCY NAME)”, in the heading on the petition insert “BEFORE THE BOARD OF EDUCATIONAL EXAMINERS”.

ITEM 5. Amend rule 282—3.5(17A) as follows:

282—3.5(17A) Inquiries. In lieu of the words “(designate official by full title and address)”, insert “Executive Director, Board of Educational Examiners, ~~Grimes State Office Building, Des Moines, Iowa 50319-0147~~ 701 East Court Avenue, Des Moines, Iowa 50319”.

ITEM 6. Amend **282—Chapter 4**, preamble, as follows:

The board of educational examiners hereby adopts the agency procedure for rule making segment of the Uniform Rules on Agency Procedure ~~printed in the first volume of the Iowa Administrative Code~~ published at www.legis.iowa.gov/docs/publications/ACOD/767403.pdf on the General Assembly's website, with the following amendments:

ITEM 7. Amend rule 282—4.5(17A) as follows:

282—4.5(17A) Public participation.

4.5(1) Written comments. In lieu of the words “(identify office and address)”, insert “Executive Director, Board of Educational Examiners, ~~Grimes State Office Building, Des Moines, Iowa 50319-0147~~ 701 East Court Avenue, Suite A, Des Moines, Iowa 50309”.

4.5(5) Accessibility. In lieu of the words “(designate office and phone number)”, insert “the executive director at (515)281-5849”.

ITEM 8. Amend rule 282—4.6(17A) as follows:

282—4.6(17A) Regulatory analysis.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

4.6(2) Mailing list. In lieu of the words “(designate office)”, insert “Board of Educational Examiners, ~~Grimes State Office Building, Des Moines, Iowa 50319-0147~~ 701 East Court Avenue, Suite A, Des Moines, Iowa 50309”.

ITEM 9. Amend rule 282—4.11(17A) as follows:

282—4.11(17A) Concise statement of reasons.

4.11(1) General. In lieu of the words “(specify the office and address)”, insert “Board of Educational Examiners, ~~Grimes State Office Building, Des Moines, Iowa 50319-0147~~ 701 East Court Avenue, Suite A, Des Moines, Iowa 50309”.

ITEM 10. Amend **282—Chapter 5**, preamble, as follows:

The board of educational examiners hereby adopts, with the following exceptions and amendments, rules of the Governor’s Task Force on Uniform Rules of Agency Procedure relating to public records and fair information practices which are ~~printed in the first volume of the Iowa Administrative Code published at~~ www.legis.iowa.gov/docs/publications/ACOD/767403.pdf on the General Assembly’s website.

ITEM 11. Amend subrule 5.3(1) as follows:

5.3(1) Location of record. In lieu of the words “(insert agency head)”, insert “office where the record is kept”. In lieu of the words “(insert agency name and address)”, insert “Board of Educational Examiners, ~~Grimes State Office Building, Des Moines, Iowa 50319-0147~~ 701 East Court Avenue, Suite A, Des Moines, Iowa 50309”.

ITEM 12. Amend **282—Chapter 6**, title, as follows:

~~WAIVERS OR VARIANCES FROM ADMINISTRATIVE RULES~~

ITEM 13. Amend rule 282—6.1(17A) as follows:

282—6.1(17A) Definition. For purposes of this chapter, a “~~waiver or variance~~” means action by the board 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. ~~For simplicity, the term “waiver” shall include both a “waiver” and a “variance.”~~

ITEM 14. Amend rule 282—6.4(17A) as follows:

282—6.4(17A) Criteria for ~~waiver or variance~~. In response to a petition completed pursuant to rule 282—6.6(17A), the board may in its sole discretion issue an order waiving in whole or in part the requirements of a rule if the board finds, based on clear and convincing evidence, all of the following:

1. The application of the rule would impose an undue hardship on the person for whom the waiver is requested;
2. The waiver from the requirements of the rule in the specific case would not prejudice the substantial legal rights of any person;
3. The provisions of the rule subject to the petition for a waiver are not specifically mandated by statute or another provision of law; and
4. 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.

ITEM 15. Amend rule 282—6.12(17A) as follows:

282—6.12(17A) Summary reports. Submission of waiver information. ~~Semiannually, the board shall prepare a summary report identifying~~ The board shall submit information about granted and denied waivers to the Internet site pursuant to Iowa Code section 17A.9A within 60 days. The Internet site shall identify 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 the rules, and a general summary of the reasons justifying the board’s actions on waiver requests. If practicable, the report shall detail the extent to which the granting of a waiver has affected the general applicability of the rule itself and the extent to which the granting of the waiver has established a precedent for additional

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

~~waivers. 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 16. Amend rule 282—11.4(17A,272) as follows:

282—11.4(17A,272) Complaint.

11.4(1) and **11.4(2)** No change.

11.4(3) *Required copies—place and time of filing the complaint.*

a. A copy of the complaint must be filed with the board.

b. The complaint must be delivered personally or by mail to the office of the board. The current office address is the ~~Grimes State Office Building, Third Floor, Des Moines, Iowa 50319-0147~~ 701 East Court Avenue, Suite A, Des Moines, Iowa 50309.

c. Timely filing is required in order to ensure the availability of witnesses and to avoid initiation of an investigation under conditions which may have been significantly altered during the period of delay. The conduct upon which it is based must have occurred or been discovered by the complainant within three years of filing of the complaint unless good cause is shown for an extension of this limitation.

11.4(4) to **11.4(9)** No change.

ITEM 17. Amend subrule 11.14(3) as follows:

11.14(3) *Filing—when required.* After the notice of hearing, all documents in a contested case proceeding shall be filed with the Board of Educational Examiners, ~~Grimes State Office Building, Des Moines, Iowa 50319-0147~~ 701 East Court Avenue, Suite A, Des Moines, Iowa 50309. All documents that are required to be served upon a party shall be filed simultaneously with the board.

ARC 5215C

EDUCATIONAL EXAMINERS BOARD[282]

Notice of Intended Action

Proposing rule making related to career and technical instructor qualifications and providing an opportunity for public comment

The Educational Examiners Board hereby proposes to amend Chapter 22, “Authorizations,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 272.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 272.2 and 2020 Iowa Acts, House File 2454.

Purpose and Summary

2020 Iowa Acts, House File 2454, updates the qualifications for community college career and technical instructors. The proposed amendment updates the same qualifications in the Board’s rules for high school career and technical instructors in order to provide consistency.

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.

EDUCATIONAL EXAMINERS BOARD[282](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 Board for a waiver of the discretionary provisions, if any, pursuant to 282—Chapter 6.

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 30, 2020. Comments should be directed to:

Kimberly Cunningham
Board of Educational Examiners
701 East Court Avenue, Suite A
Des Moines, Iowa 50319-0147
Fax: 515.281.7669
Email: kim.cunningham@iowa.gov

Public Hearing

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

October 28, 2020
1 p.m.

Board Room
701 East Court Avenue, Suite A
Des Moines, Iowa

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

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Amend paragraph **22.9(3)“c”** as follows:

~~c. An applicant for this authorization must have completed 6,000 hours of recent and relevant career and technical experience in the teaching endorsement area sought. If the candidate also holds a bachelor's degree, the experience requirement is 4,000 hours. Applicants shall meet one of the following qualifications:~~

- (1) 6,000 hours of recent and relevant experience;
- (2) 4,000 hours of recent and relevant experience if the applicant holds a baccalaureate degree;
- (3) 3,000 hours of recent and relevant experience if the applicant holds an associate's degree in the teaching endorsement area sought, if such a degree is considered terminal for that field of instruction;
- (4) Hold a baccalaureate or graduate degree or closely related degree in the teaching endorsement area sought; or
- (5) Hold a baccalaureate degree in any area of study if at least 18 of the credit hours were completed in the teaching endorsement area sought.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

This Recent and relevant experience shall have been accrued within the ten years prior to the date of application. Experience that does not meet these criteria may be considered at the discretion of the executive director. In subjects for which state registration, certification or licensure is required, the applicant must hold the appropriate license, registration or certificate before the initial career and technical secondary authorization or the career and technical secondary authorization will be issued.

ARC 5216C**EDUCATIONAL EXAMINERS BOARD[282]****Notice of Intended Action****Proposing rule making related to licensure for out-of-state applicants
and providing an opportunity for public comment**

The Educational Examiners Board hereby proposes to amend Chapter 13, "Issuance of Teacher Licenses and Endorsements," Chapter 18, "Issuance of Administrator Licenses and Endorsements," Chapter 22, "Authorizations," and Chapter 27, "Issuance of Professional Service Licenses," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 272.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 272.2 and 2020 Iowa Acts, House File 2627.

Purpose and Summary

2020 Iowa Acts, House File 2627, directs the Board to update language for granting licensure to out-of-state applicants under certain conditions. These proposed amendments implement those changes throughout the Board's rules.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 282—Chapter 6.

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 30, 2020. Comments should be directed to:

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

Kimberly Cunningham
 Board of Educational Examiners
 701 East Court Avenue, Suite A
 Des Moines, Iowa 50319-0147
 Fax: 515.281.7669
 Email: kim.cunningham@iowa.gov

Public Hearing

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

October 28, 2020
 1 p.m.

Board Room
 701 East Court Avenue, Suite A
 Des Moines, Iowa

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

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rule 282—13.5(272) as follows:

282—13.5(272) Teacher licenses. A license may be issued to an applicant who fulfills the general requirements set out in subrule 13.5(1) and the specific requirements set out for each license.

13.5(1) No change.

13.5(2) *Applicants from non-Iowa institutions.*

a. to e. No change.

f. An applicant under this subrule or subrule 13.5(3) shall be granted an Iowa teaching license and will not be subject to additional assessments or coursework deficiencies if the following additional requirements have been met:

(1) Verification of Iowa residency, or, for military spouses, verification of a permanent change of military installation.

(2) Valid or expired regular teaching certificate or license in good standing from another state without pending disciplinary action, valid for a minimum of one year, exclusive of a temporary, emergency or substitute license or certificate. Endorsements shall be granted based on comparable Iowa endorsements, and endorsement requirements may be waived in order to grant the most comparable endorsement.

(3) Passing test scores for the required assessments for the state where the teaching license was issued.

13.5(3) *Applicants from foreign institutions.* An applicant for initial licensure whose preparation was completed in a foreign institution must additionally obtain a course-by-course credential evaluation report completed by one of the board-approved credential evaluation services and then file this report with the Iowa board of educational examiners for a determination of eligibility for licensure. After receiving the notification of eligibility by the Iowa board of educational examiners, the applicant must

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

provide verification of successfully passing the Iowa-mandated assessment(s) ~~by meeting the minimum score set by the Iowa department of education~~ pursuant to subparagraph 13.5(2) “b”(2).

ITEM 2. Rescind and reserve rule ~~282—13.15(272)~~.

ITEM 3. Amend subrule 13.16(1) as follows:

13.16(1) *Substitute teacher requirements.* A substitute teacher’s license may be issued to an individual who ~~provides verification of successfully passing the Iowa-mandated assessment(s) by meeting the minimum score set by the Iowa department of education~~ if the teacher preparation program was completed on or after January 1, 2013, and who:

~~a. Has~~ has completed a ~~traditional~~ teacher preparation program and been the holder of, or presently holds, or is eligible to hold, a license in Iowa; ~~or,~~

~~b. Holds a valid or expired teaching certificate based on a nontraditional teacher preparation program, is able to verify three years of teaching experience, and provides passing scores on tests mandated by the state that issued the certificate. The license issued will contain a disclaimer stating that the holder of this license may not be eligible for full Iowa teaching licensure.~~

ITEM 4. Amend rule 282—18.6(272) as follows:

282—18.6(272) Specific requirements for an administrator prepared out of state. An applicant seeking Iowa licensure who completes an administrator preparation program from a recognized non-Iowa institution shall verify the requirements of rules 282—18.1(272) and 282—18.4(272) through traditional course-based preparation program and transcript review. A recognized non-Iowa administrator preparation institution is one that is state-approved and is accredited by the regional accrediting agency for the territory in which the institution is located. Applicants must hold and submit a copy of a valid or expired regular administrator certificate or license in ~~the another state in which the preparation was completed,~~ exclusive of a temporary, emergency or substitute license or certificate.

18.6(1) and 18.6(2) No change.

18.6(3) *License without deficiencies.* An applicant under this rule shall be granted an Iowa administrator license and will not be subject to coursework deficiencies if the following additional requirements have been met:

a. Verification of Iowa residency, or, for military spouses, verification of a permanent change of military installation.

b. Valid or expired administrator certificate or license in good standing without pending disciplinary action from another state, valid for a minimum of one year, exclusive of a temporary, emergency or substitute license or certificate. Endorsements shall be granted based on comparable Iowa endorsements, and endorsement requirements may be waived in order to grant the most comparable endorsement.

ITEM 5. Adopt the following **new** paragraph **22.1(2)“d”**:

d. License without deficiencies. Applicants who hold a coaching license, certificate, or authorization from at least one other issuing jurisdiction in another state will not be subject to additional coursework if the following requirements have been met:

(1) Verification of Iowa residency in the state of Iowa, or, for military spouses, verification of a permanent change of military installation.

(2) Valid or expired equivalent license in good standing from another state without pending disciplinary action, valid for a minimum of one year, exclusive of a temporary, emergency or substitute license or certificate.

ITEM 6. Adopt the following **new** subrule 27.2(4):

27.2(4) *Professional service exchange license.*

a. For an applicant applying under rule 282—27.1(272), a two-year nonrenewable exchange license may be issued to the applicant if the applicant has met at least 75 percent of the minimum coursework requirements for licensure but has some coursework deficiencies. At any time during the

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

term of the exchange license, the applicant may apply to be fully licensed if the applicant has completed all requirements and is eligible for full licensure.

b. An applicant under this section shall be granted an Iowa professional service license and will not be subject to coursework deficiencies if the following additional requirements have been met:

(1) Verification of Iowa residency, or, for military spouses, verification of a permanent change of military installation.

(2) Valid or expired equivalent license in good standing from another state without pending disciplinary action, valid for a minimum of one year, exclusive of a temporary, emergency or substitute license or certificate. Endorsements shall be granted based on comparable Iowa endorsements, and endorsement requirements may be waived in order to grant the most comparable endorsement.

ITEM 7. Adopt the following **new** subrule 27.2(5):

27.2(5) Class G license. A nonrenewable Class G license valid for one year may be issued to an individual who must complete a school counseling practicum or internship in an approved program in preparation for the professional school counselor endorsement. The Class G license may be issued under the following limited conditions:

a. Verification of a baccalaureate degree from a regionally accredited institution.

b. Verification from the institution that the individual is admitted and enrolled in a school counseling program.

c. Verification that the individual has completed the coursework and competencies required prior to the practicum or internship.

d. Written documentation of the requirements listed in paragraphs 27.2(5) “a” to “c,” provided by the official at the institution where the individual is completing the approved school counseling program and forwarded to the Iowa board of educational examiners with the application form for licensure.

ARC 5212C

EDUCATIONAL EXAMINERS BOARD[282]

Notice of Intended Action

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

The Educational Examiners Board hereby proposes to amend Chapter 13, “Issuance of Teacher Licenses and Endorsements,” Chapter 15, “Special Education Support Personnel Authorizations,” Chapter 18, “Issuance of Administrator Licenses and Endorsements,” Chapter 22, “Authorizations,” Chapter 23, “Behind-the-Wheel Driving Instructor Authorization,” and Chapter 27, “Issuance of Professional Service Licenses,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 272.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 272.2.

Purpose and Summary

The proposed amendments update teacher endorsement areas, move the orientation and mobility specialist authorization to Chapter 22, update the administrator endorsements to align with national standards, and update the behind-the-wheel driving instructor authorization to remove redundant requirements already listed within the Iowa Department of Transportation chapters of the Iowa Administrative Code.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 282—Chapter 6.

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 30, 2020. Comments should be directed to:

Kimberly Cunningham
Board of Educational Examiners
701 East Court Avenue, Suite A
Des Moines, Iowa 50319-0147
Fax: 515.281.7669
Email: kim.cunningham@iowa.gov

Public Hearing

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

October 28, 2020
1 p.m.

Board Room
701 East Court Avenue, Suite A
Des Moines, Iowa

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

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rule 282—13.28(272) as follows:

282—13.28(272) Minimum content requirements for teaching endorsements.

13.28(1) to 13.28(6) No change.

13.28(7) *Foreign World language*. K-8 and 5-12. Completion of 24 semester hours in each ~~foreign~~ world language for which endorsement is sought.

13.28(8) to 13.28(17) No change.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

13.28(18) *Social sciences.*

a. to k. No change.

l. Social sciences—basic. 5-12. Completion of 27 semester hours to include 9 semester hours in each of American history, world history, and American government. Holders of the 5-12 social sciences—basic endorsement may add the following endorsements with 6 semester hours per endorsement area: 5-12 economics, 5-12 geography, 5-12 psychology, or 5-12 sociology.

13.28(19) to 13.28(24) No change.

13.28(25) *American Sign Language endorsement.*

a. Authorization. The holder of this endorsement is authorized to teach American Sign Language in kindergarten and grades one through twelve.

b. Content. Completion of 18 semester hours of coursework in American Sign Language to include the following:

- (1) Second language acquisition.
- (2) Sociology of the deaf community.
- (3) Linguistic structure of American Sign Language.
- (4) Language teaching methodology specific to American Sign Language.
- (5) Teaching the culture of deaf people.
- (6) Assessment of students in an American Sign Language program.

c.—Other. Be the holder of or be eligible for one other teaching endorsement.

13.28(26) to 13.28(29) No change.

13.28(30) *Content specialist endorsement.* The applicant must have met the requirements for the standard license and a teaching endorsement.

a.—Authorization. The holder of this endorsement is authorized to serve as a content specialist in kindergarten and grades one through twelve in the specific content listed on the authorization.

b.—Requirements.

(1) Hold a master's degree in the content area or complete 30 semester hours of college course work in the content area.

(2) Complete 15 semester hours of credit in professional development in three or more of the following areas:

1. Using research-based content teaching strategies;
2. Integrating appropriate technology into the learning experiences for the specific content;
3. Engaging the learner in the content through knowledge of learner needs and interests;
4. Using reflective thinking to solve problems in the content area;
5. Making data-driven decisions in the content area;
6. Utilizing project-based learning in the content area;
7. Developing critical thinking skills in the content area;
8. Forming partnerships to collaborate with content experts within the community;
9. Relating content with other content areas;
10. Facilitating content learning in large and small teams;
11. Implementing response to intervention (RTI) to close achievement gaps in the content area.

(3) Complete an internship, externship, or professional experience for a minimum of 90 contact hours in the content area.

13.28(31) to 13.28(35) No change.

ITEM 2. Rescind and reserve rule **282—15.7(272)**.

ITEM 3. Amend rule 282—18.5(272) as follows:

282—18.5(272) Specific requirements for a professional administrator license. A professional administrator license valid for five years may be issued to an applicant who does all of the following:

18.5(1) Completes the requirements in 18.4(2)“a” to “g.” rule 282—18.4(272).

18.5(2) Successfully meets each standard listed below: pursuant to rule 281—83.10(284A).

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

~~a.—*Shared vision.* An educational leader promotes the success of all students by facilitating the development, articulation, implementation, and stewardship of a vision of learning that is shared and supported by the school community. The administrator:~~

~~(1) In collaboration with others, uses appropriate data to establish rigorous, concrete goals in the context of student achievement and instructional programs.~~

~~(2) Uses research and best practices in improving the educational program.~~

~~(3) Articulates and promotes high expectations for teaching and learning.~~

~~(4) Aligns and implements the educational programs, plans, actions, and resources with the district's vision and goals.~~

~~(5) Provides leadership for major initiatives and change efforts.~~

~~(6) Communicates effectively to various stakeholders regarding progress with school improvement plan goals.~~

~~b.—*Culture of learning.* An educational leader promotes the success of all students by advocating, nurturing and sustaining a school culture and instructional program conducive to student learning and staff professional development. The administrator:~~

~~(1) Provides leadership for assessing, developing and improving climate and culture.~~

~~(2) Systematically and fairly recognizes and celebrates accomplishments of staff and students.~~

~~(3) Provides leadership, encouragement, opportunities and structure for staff to continually design more effective teaching and learning experiences for all students.~~

~~(4) Monitors and evaluates the effectiveness of curriculum, instruction and assessment.~~

~~(5) Evaluates staff and provides ongoing coaching for improvement.~~

~~(6) Ensures that staff members have professional development that directly enhances their performance and improves student learning.~~

~~(7) Uses current research and theory about effective schools and leadership to develop and revise the administrator's professional growth plan.~~

~~(8) Promotes collaboration with all stakeholders.~~

~~(9) Is easily accessible and approachable to all stakeholders.~~

~~(10) Is highly visible and engaged in the school community.~~

~~(11) Articulates the desired school culture and shows evidence about how it is reinforced.~~

~~c.—*Management.* An educational leader promotes the success of all students by ensuring management of the organization, operations and resources for a safe, efficient and effective learning environment. The administrator:~~

~~(1) Complies with state and federal mandates and local board policies.~~

~~(2) Recruits, selects, inducts, and retains staff to support quality instruction.~~

~~(3) Addresses current and potential issues in a timely manner.~~

~~(4) Manages fiscal and physical resources responsibly, efficiently, and effectively.~~

~~(5) Protects instructional time by designing and managing operational procedures to maximize learning.~~

~~(6) Communicates effectively with both internal and external audiences about the operations of the school.~~

~~d.—*Family and community.* An educational leader promotes the success of all students by collaborating with families and community members, responding to diverse community interests and needs, and mobilizing community resources. The administrator:~~

~~(1) Engages family and community by promoting shared responsibility for student learning and support of the education system.~~

~~(2) Promotes and supports a structure for family and community involvement in the education system.~~

~~(3) Facilitates the connections of students and families to the health and social services that support a focus on learning.~~

18.5(3) No change.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

ITEM 4. Amend paragraph **18.9(1)“b”** as follows:

b. Program requirements.

(1) Degree—master’s.

(2) Content: Completion of a sequence of courses and experiences which may have been a part of, or in addition to, the degree requirements. Candidates who successfully complete a building-level educational leadership preparation program understand and demonstrate the capacity to promote the current and future success and well-being of each student and adult by applying the knowledge, skills, and commitments necessary to:

1. ~~Knowledge of early childhood, elementary, early adolescent and secondary level administration, supervision, and evaluation.~~ Collaboratively lead, design, and implement a school mission, vision, and process for continuous improvement that reflects a core set of values and priorities that include data use, technology, equity, diversity, digital citizenship, and community (Mission, Vision, and Improvement).

2. ~~Knowledge and skill related to early childhood, elementary, early adolescent and secondary level curriculum development.~~ Advocate for ethical decisions and cultivate and enact professional norms (Ethics and Professional Norms).

3. ~~Knowledge of child growth and development from birth through adolescence and developmentally appropriate strategies and practices of early childhood, elementary, and adolescence, to include an observation practicum.~~ Develop and maintain a supportive, equitable, culturally responsive, and inclusive school culture (Equity, Inclusiveness, and Cultural Responsiveness) to include meeting the needs of all learners, as well as ensuring teachers meet the needs of diverse learners, including:

- Students from diverse ethnic, racial and socioeconomic backgrounds.
- Students with disabilities, including preparation in developing and implementing individualized education programs and behavioral intervention plans, preparation for educating individuals in the least restrictive environment and identifying that environment, and strategies that address difficult and violent student behavior and improve academic engagement and achievement.
- Students who are struggling with literacy, including those with dyslexia.
- Students who are gifted and talented.
- English language learners.
- Students who may be at risk of not succeeding in school. This preparation will include classroom management addressing high-risk behaviors including, but not limited to, behaviors related to substance abuse.

4. ~~Knowledge of family support systems, factors which place families at risk, child care issues, and home-school-community relationships and interactions designed to promote parent education, family involvement, and interagency collaboration.~~ Evaluate, develop, and implement coherent systems of curriculum, instruction, data systems, supports, and assessment (Learning and Instruction).

5. ~~Knowledge of school law and legislative and public policy issues affecting children and families.~~ Strengthen student learning, support school improvement, and advocate for the needs of their school and community (Community and External Leadership).

6. ~~Completion of evaluator training component.~~ Improve management, communication, technology, school-level governance, and operation systems to develop and improve data-informed and equitable school resource plans and to apply laws, policies, and regulations, including a dedicated course in current issues of special education administration (Operations and Management).

7. ~~Knowledge of current issues in special education administration.~~ Build the school’s professional capacity, engage staff in the development of a collaborative professional culture, and improve systems of staff supervision, evaluation, support, and professional learning, including the completion of Iowa evaluator training (Building Professional Capacity).

8. ~~Planned field experiences in elementary and secondary school administration, including special education administration.~~ Successfully complete an internship under the supervision of knowledgeable, expert practitioners that engages candidates in multiple and diverse school settings and provides candidates with coherent, authentic, and sustained opportunities to synthesize and apply the knowledge and skills pursuant to this section in ways that approximate the full range of responsibilities required

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

of building-level leaders and enable them to promote the current and future success and well-being of each student and adult in their school, including planned experiences in elementary and secondary administration with special education administration.

9. ~~Competencies: Completion of a sequence of courses and experiences which may have been a part of, or in addition to, the degree requirements. A school administrator is an educational leader who promotes the success of all students by accomplishing the following competencies.~~

~~• Facilitates the development, articulation, implementation, and stewardship of a vision of learning that is shared and supported by the school community.~~

~~• Advocates, nurtures, and sustains a school culture and instructional program conducive to student learning and staff professional growth.~~

~~• Ensures management of the organization, operations, and resources for a safe, efficient, and effective learning environment.~~

~~• Collaborates with families and community members, responds to diverse community interests and needs, and mobilizes community resources.~~

~~• Acts with integrity, fairness, and in an ethical manner.~~

~~• Understands, responds to, and influences the larger political, social, economic, legal, and cultural context.~~

ITEM 5. Amend subrule 18.10(2) as follows:

18.10(2) Program requirements.

a. No change.

b. Content. Through completion of a sequence of courses and experiences which may have been part of, or in addition to, the degree requirements, ~~the administrator has knowledge and understanding of candidates who successfully complete a district-level educational leadership preparation program~~ understand and demonstrate the capacity to promote the current and future success and well-being of each student and adult by applying the knowledge, skills, and commitments necessary to:

~~(1) Models, theories, and practices that provide the basis for leading educational systems toward improving student performance. Collaboratively lead, design, and implement a district mission, vision, and process for continuous improvement that reflects a core set of values and priorities that include data use, technology, values, equity, diversity, digital citizenship, and community (District Mission, Vision, and Improvement).~~

~~(2) Federal, state and local fiscal policies related to education. Advocate for ethical decisions and cultivate professional norms and culture (Ethics and Professional Norms).~~

~~(3) Human resources management, including recruitment, personnel assistance and development, evaluation and negotiations. Develop and maintain a supportive, equitable, culturally responsive, and inclusive district culture (Equity, Inclusiveness, and Cultural Responsiveness) to include meeting the needs of all learners, as well as ensuring teachers meet the needs of diverse learners, including:~~

~~1. Students from diverse ethnic, racial and socioeconomic backgrounds.~~

~~2. Students with disabilities, including preparation in developing and implementing individualized education programs and behavioral intervention plans, preparation for educating individuals in the least restrictive environment and identifying that environment, and strategies that address difficult and violent student behavior and improve academic engagement and achievement.~~

~~3. Students who are struggling with literacy, including those with dyslexia.~~

~~4. Students who are gifted and talented.~~

~~5. English language learners.~~

~~6. Students who may be at risk of not succeeding in school. This preparation will include classroom management addressing high-risk behaviors including, but not limited to, behaviors related to substance abuse.~~

~~(4) Current legal issues in general and special education. Evaluate, design, cultivate, and implement coherent systems of curriculum, instruction, data systems, supports, assessment, and instructional leadership (Learning and Instruction).~~

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

~~(5) Noninstructional support services management including but not limited to transportation, nutrition and facilities. Understand and engage families, communities, and other constituents in the work of schools and the district and to advocate for district, student, and community needs (Community and External Leadership).~~

~~(6) Practicum in PK-12 school administration. In the coursework and the practicum, the administrator facilitates processes and engages in activities for: Develop, monitor, evaluate, and manage data-informed and equitable district systems for operations, resources, technology, and human capital management, including instructional and noninstructional district support services (Operations and Management).~~

~~1. Developing a shared vision of learning through articulation, implementation, and stewardship.
2. Advocating, nurturing, and sustaining a school culture and instructional program conducive to student learning and staff professional growth.~~

~~3. Ensuring management of the organization, operations, and resources for a safe, efficient, and effective learning environment.~~

~~4. Collaborating with school staff, families, community members and boards of directors; responding to diverse community interests and needs; and mobilizing community resources.~~

~~5. Acting with integrity, fairness, and in an ethical manner.~~

~~6. Understanding, responding to, and influencing the larger political, social, economic, legal, and cultural context.~~

~~(7) Cultivate relationships, lead collaborative decision making and governance, and represent and advocate for district needs in broader policy conversations (Policy, Governance, and Advocacy).~~

~~(8) Successfully complete an internship under the supervision of knowledgeable, expert practitioners that engages candidates in multiple and diverse district settings and provides candidates with coherent, authentic, and sustained opportunities to synthesize and apply the knowledge and skills identified in this section in ways that approximate the full range of responsibilities required of district-level leaders and enable them to promote the current and future success and well-being of each student and adult in their district.~~

ITEM 6. Amend subrule 18.11(2) as follows:

18.11(2) Program requirements.

~~a. Degree—specialist or its equivalent master's. An applicant must hold a master's degree plus at least 32 semester hours of planned graduate study in administration or special education beyond the master's degree.~~

~~b. Endorsement. An applicant must hold or meet the requirements for one of the following:~~

~~(1) PK-12 principal and PK-12 supervisor of special education (see rule 282—18.9(272));~~

~~(2) Supervisor of special education—instructional (see rule 282—15.5(272));~~

~~(3) Professional service administrator (see 282—subrule 27.3(5)); or~~

~~(4) A letter of authorization for special education supervisor issued prior to October 1, 1988.~~

~~c. Content. An applicant must have completed a sequence of courses and experiences which may have been part of, or in addition to, the degree requirements of at least 24 additional semester hours to include the following:~~

~~(1) Knowledge of federal, state and local fiscal policies related to education. Understand and demonstrate the capacity to advocate for ethical decisions and cultivate professional norms and culture.~~

~~(2) Knowledge of school plant/facility planning.~~

~~(3) (2) Knowledge of human resources management, including recruitment, personnel assistance and development, evaluations and negotiations. Develop and maintain a safe, supportive, equitable, culturally responsive, and inclusive district culture.~~

~~(4) (3) Knowledge of models, theories and philosophies that provide the basis for educational systems. Collaboratively lead, design, and implement a district mission, vision, and process for continuous improvement that reflects a core set of values and priorities that include data use, technology, values, equity, diversity, digital citizenship, and community.~~

~~(5) (4) Knowledge of current issues in special education and special education administration.~~

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

~~(6)~~ (5) Knowledge of special education school law and legislative and public policy issues affecting children and families.

~~(7)~~ (6) Knowledge of the powers and duties of the director of special education of an area education agency as delineated in Iowa Code section 273.5.

~~(8)~~ (7) Practicum in administration and supervision of special education programs.

d. Experience. An applicant must meet the experience requirement set forth in 18.10(3).

e. Competencies. Through completion of a sequence of courses and experiences which may have been part of, or in addition to, the degree requirements, the director of special education accomplishes the following:

~~(1)~~ Facilitates the development, articulation, implementation and stewardship of a vision of learning that is shared and supported by the school community.

~~(2)~~ Advocates, nurtures and sustains a school culture and instructional program conducive to student learning and staff professional growth.

~~(3)~~ Ensures management of the organization, operations and resources for a safe, efficient and effective learning environment.

~~(4)~~ Collaborates with educational staff, families and community members; responds to diverse community interests and needs; and mobilizes community resources.

~~(5)~~ Acts with integrity and fairness and in an ethical manner.

~~(6)~~ Understands, responds to, and influences the larger political, social, economic, legal, and cultural context.

~~(7)~~ Collaborates and assists in supporting integrated work of the entire agency.

ITEM 7. Rescind rule 282—22.12(272) and adopt the following **new** rule in lieu thereof:

282—22.12(272) Orientation and mobility authorization.

22.12(1) Authorization. The holder of this authorization may teach pupils with a visual impairment (see Iowa Code section 256B.2), including those pupils who are deaf-blind.

22.12(2) Initial orientation and mobility authorization. The initial authorization is valid for three years. An applicant must:

a. Hold a baccalaureate or master's degree from an approved state and regionally accredited program in orientation and mobility or equivalent coursework.

b. Have completed an approved human relations component.

c. Have completed the exceptional learner program, which must include preparation that contributes to the education of students with disabilities and students who are gifted and talented.

d. Have completed a minimum of 21 semester credit hours in the following areas:

(1) Medical aspects of blindness and visual impairment, including sensory motor.

(2) Psychosocial aspects of blindness and visual impairment.

(3) Child development.

(4) Concept development.

(5) History of orientation and mobility.

(6) Foundations of orientation and mobility.

(7) Orientation and mobility instructional methods and assessments.

(8) Techniques of orientation and mobility.

(9) Research or evidence-based practices in orientation and mobility.

(10) Professional issues in orientation and mobility, including legal issues.

e. Have completed at least 350 hours of fieldwork and training under the supervision of the university program.

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

22.12(3) Standard orientation and mobility license. An applicant must:

a. Complete the requirements set forth in subrule 22.12(2).

b. Verify successful completion of a three-year probationary period.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

22.12(4) *Renewal of orientation and mobility license.* Renewal requirements for the career and technical secondary authorization. Applicants must meet the renewal requirements set forth in rule 282—20.3(272) and 282—subrule 20.5(2).

22.12(5) *Exception.* An orientation and mobility specialist is not eligible for any administrator license in either general education or special education.

ITEM 8. Amend rule 282—23.1(272,321) as follows:

282—23.1(272,321) Requirements. Applicants for the behind-the-wheel driving instructor authorization shall meet the following requirements:

23.1(1) *Qualifications.* To qualify for the behind-the-wheel driving instructor authorization, the applicant must:

a. ~~Be at least 25 years of age. Meet the requirements set forth by the Iowa department of transportation pursuant to rule 761—34.6(321).~~

b. ~~Hold a valid driver's license that permits unaccompanied driving, other than a motorized bicycle license or a temporary restricted license.~~

c. ~~Have a clear driving record for the previous two years. A clear driving record means that the individual has:~~

~~(1) Not been identified as a candidate for driver's license suspension under the habitual violator provisions of rule 761—615.13(321) or serious violation provisions of rule 761—615.17(321).~~

~~(2) No driver's license suspensions, revocations, denials, cancellations, disqualifications, or bars.~~

~~(3) Not committed an offense which results in driver's license suspension, revocation, denial, cancellation, disqualification, or bar.~~

~~(4) No record of an accident for which the individual was convicted of a moving traffic violation.~~

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

~~**23.1(2) *Approved coursework.*** The applicant shall successfully complete a behind the wheel driving instructor course approved by the department of transportation. At a minimum, classroom instruction shall include at least 12 clock hours of observed behind the wheel instruction and 24 clock hours of classroom instruction to include psychology of the young driver, behind the wheel teaching techniques, ethical teaching practices, and route selection.~~

~~**23.1(3) 23.1(2) *Classroom instruction.*** To be eligible to provide classroom instruction, holders of the behind-the-wheel driving instructor authorization must additionally hold a valid or expired initial, standard, exchange, or master educator license with endorsement for driver education as set forth in 282—subrule 13.28(4).~~

ITEM 9. Amend rule 282—23.4(272,321) as follows:

282—23.4(272,321) Application process. Any person interested in the behind-the-wheel driving instructor authorization shall submit records of completion of a department of transportation-approved program to the board of educational examiners for an evaluation of completion of coursework and all other requirements. ~~Application materials are available from the board of educational examiners or the department of transportation or from institutions or agencies offering department of transportation-approved courses.~~

ITEM 10. Amend rule 282—23.5(272,321) as follows:

282—23.5(272,321) Renewal. All fees are nonrefundable. The behind-the-wheel driving instructor authorization may be renewed upon application and verification of successful completion of: the child and dependent adult abuse trainings required pursuant to 282—subrule 20.3(4).

~~**23.5(1)** Providing behind the wheel instruction for a minimum of 12 clock hours during the previous school year; and~~

~~**23.5(2)** Successful participation in at least one department of transportation-sponsored or department of transportation-approved behind the wheel instructor refresher course; and~~

~~**23.5(3)** Child and dependent adult abuse trainings pursuant to 282—subrule 20.3(4).~~

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

ITEM 11. Amend paragraph 27.3(7)“a” as follows:

a. *Authorization.* An individual who meets the requirements of 282—~~paragraph 15.7(5)“b” or~~ 282—subrule 16.6(2) is authorized to serve as a school social worker to pupils from birth to age 21 (and to a maximum allowable age in accordance with Iowa Code section 256B.8).

ARC 5214C

EDUCATIONAL EXAMINERS BOARD[282]

Notice of Intended Action

**Proposing rule making related to unethical practice
and providing an opportunity for public comment**

The Educational Examiners Board hereby proposes to amend Chapter 25, “Code of Professional Conduct and Ethics,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 272.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 272.2 and 2020 Iowa Acts, Senate File 2360.

Purpose and Summary

2020 Iowa Acts, Senate File 2360, directs the Board to update language regarding unethical practice under certain conditions. These proposed amendments implement those 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 Board for a waiver of the discretionary provisions, if any, pursuant to 282—Chapter 6.

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 30, 2020. Comments should be directed to:

Kimberly Cunningham
Board of Educational Examiners
701 East Court Avenue, Suite A
Des Moines, Iowa 50319-0147
Fax: 515.281.7669
Email: kim.cunningham@iowa.gov

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

Public Hearing

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

October 28, 2020
1 p.m.

Board Room
701 East Court Avenue, Suite A
Des Moines, Iowa

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

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Amend subrule 25.3(6) as follows:

25.3(6) Standard VI—unethical practice toward other members of the profession, parents, students, and the community. Violation of this standard includes:

- a. to r.* No change.
- s.* Failure of an administrator to protect the safety of staff and students.
- t.* Failure of an administrator to meet mandatory reporter obligations.
- u.* Refusal of the practitioner to implement provisions of an individualized education program or behavioral intervention plan.
- v.* Habitual nonparticipation in professional development by the practitioner.

ARC 5219C**IOWA FINANCE AUTHORITY[265]****Notice of Intended Action****Proposing rule making related to using ESG program funds to renovate emergency shelters and providing an opportunity for public comment**

The Iowa Finance Authority hereby proposes to amend Chapter 42, "Emergency Solutions Grant Program," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 16.5.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 16.5.

Purpose and Summary

The Authority is the state agency charged with administering the Emergency Solutions Grant (ESG) program, a federal program funded and regulated by the U.S. Department of Housing and Urban Development (HUD). HUD regulations for ESG permit the renovation of emergency shelters for

IOWA FINANCE AUTHORITY[265](cont'd)

homeless shelters as an eligible activity. Rule 265—42.4(16) sets forth the eligible grant activities under the HUD program. Currently, rule 265—42.4(16), in the shelter category, only permits the operation of emergency shelters and the provision of essential services to homeless families and individuals. Historically, the Authority has received a relatively smaller annual allocation of funds, less than \$3 million per year. However, in summer 2020, the Authority received a larger supplemental allocation of \$11 million as part of the COVID-19 relief package. The Authority proposes adding renovation as a permitted activity because the need to renovate emergency shelters exists and the allocated funds are sufficient to award grant applications for renovation. The Authority awards funds through a competition and establishes the scoring criteria for prioritized activities for each competition cycle in accordance with funding levels and need. The Authority also proposes amending rule 265—42.5(16) to update an outdated statutory reference.

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 Authority for a waiver of the discretionary provisions, if any, pursuant to 265—Chapter 18.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Authority no later than 4:30 p.m. on October 27, 2020. Comments should be directed to:

Kristin Hanks-Bents
Iowa Finance Authority
1963 Bell Avenue, Suite 200
Des Moines, Iowa 50315
Email: kristin.hanks-bents@iowafinance.com

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

IOWA FINANCE AUTHORITY[265](cont'd)

ITEM 1. Amend rule 265—42.4(16) as follows:

265—42.4(16) Eligible activities. Eligible activities may include only the following:

42.4(1) Street outreach. Provision of essential services necessary to reach out to unsheltered homeless people; to connect them with shelter, housing, or critical services; and to provide urgent, non-facility-based care to unsheltered homeless people who are unwilling or unable to access shelter, housing, or an appropriate health facility.

42.4(2) Shelter. Provision of essential services to homeless families and individuals in shelters, the renovation of buildings to be used as emergency shelters for homeless families and individuals, and the operation of emergency shelters.

42.4(3) Prevention of homelessness. The provision of housing relocation and stabilization services, short- or medium-term rental assistance, or other financial assistance as necessary to prevent an individual or family from experiencing homelessness.

42.4(4) Rapid re-housing. The provision of housing relocation and stabilization services, short- or medium-term rental assistance, or other financial assistance as necessary to help an individual or family experiencing homelessness to move as quickly as possible into permanent housing and achieve stability in that housing.

42.4(5) Administrative costs. A subrecipient may use a portion of a grant received for administrative purposes as determined by IFA. IFA reserves the authority for distribution of administrative funds.

42.4(6) Homeless Management Information System (HMIS) projects. IFA may award grants for HMIS implementation to support data collection, reporting, and analysis as long as the total amount of such grants does not exceed 10 percent of the total Emergency Solutions Grant Program allocation. Eligible costs may include equipment, software, services, personnel, space, and operations for HMIS activities. IFA may in its discretion award such a grant, subject to the terms of this subrule, without regard to the application and review provisions of rules 265—42.6(16) and 265—42.7(16). Subrecipients of grants in support of other eligible activities listed in subrules 42.4(1) to 42.4(4) may also use a portion of such grants to support data collection and reporting using the HMIS or comparable database.

ITEM 2. Amend rule 265—42.5(16) as follows:

265—42.5(16) Ineligible activities. As a general rule, any activity that is not authorized under the provisions of ~~P.L. 100-628~~ the HEARTH Act of 2009 is ineligible to be carried out with ESG program funds.

ARC 5210C

REVENUE DEPARTMENT[701]

Amended Notice of Intended Action

Proposing rule making related to homestead tax credit and military service tax exemption and providing an opportunity for public comment

The Revenue Department hereby proposes to amend Chapter 80, “Property Tax Credits and Exemptions,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 421.14, 425.8 and 426A.7.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 425 and 426A and sections 22.7, 35.1 and 35.2.

REVENUE DEPARTMENT[701](cont'd)

Purpose and Summary

This proposed rule making is intended to clean up various provisions in existing rules related to the homestead tax credit and the military service tax exemption. In particular, this rule making defines “under honorable conditions” for purposes of the disabled veteran tax credit and the military service tax exemption, describes the application requirements for the disabled veteran tax credit, and describes the eligibility of a person who has received multiple discharges from service for the disabled veteran tax credit. This rule making also clarifies the language of existing subrules regarding the applicability of the homestead tax credit and the military service tax exemption to a shareholder of a family farm corporation, the applicability of the homestead tax credit to a person owning a homestead dwelling located upon land owned by another person or entity, and the Iowa residency requirement for a person claiming a military service tax exemption. Lastly, this rule making removes unnecessary citations.

Reason for Amendment of Notice of Intended Action

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 29, 2020, as **ARC 5104C**. No comments were received in response to the Notice of Intended Action. However, upon further review, the Department determined that certain amendments to Chapter 80 included in the Notice of Intended Action required further clarification. As a result, the Department added language to paragraphs 80.1(3)“b” and “d” and removed language from paragraph 80.1(3)“c.” These changes are meant to clarify that this rule making does not alter the eligibility requirements for the disabled veteran tax credit. The Department also determined that taxpayers would benefit from an explanation of the “under honorable conditions” language from Iowa Code section 35.1 as it pertains to the military service tax exemption. Therefore, a definition of “under honorable conditions” was added to this rule making as paragraph 80.2(2)“v.” Lastly, a typo was corrected in paragraph 80.2(2)“c.”

Fiscal Impact, Jobs Impact, Waivers

Statements related to the fiscal impact, jobs impact, and waiver of this rule making may be found in the preamble of **ARC 5104C**.

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 27, 2020. Comments should be directed to:

Nick Behlke
Iowa 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

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

REVENUE DEPARTMENT[701](cont'd)

group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule 701—80.1(425) as follows:

701—80.1(425) Homestead tax credit.

80.1(1) Application for credit.

a. No homestead tax credit shall be allowed unless the first application for homestead tax credit is signed by the owner of the property or the owner's qualified designee and filed with the city or county assessor on or before July 1 of the current assessment year. ~~(1946 O.A.G. 37)~~ Once filed, the claim for credit is applicable to subsequent years and no further filing shall be required provided the homestead is owned and occupied by the claimant or the claimant's spouse on July 1 of each year and, in addition, the claimant or the claimant's spouse occupies the homestead for at least six months during each calendar year in which the fiscal year for which the credit is claimed begins. It is not a requirement that the six-month period of time be consecutive. If the credit is disallowed and the claimant failed to give written notice to the assessor that the claimant ceased to use the property as a homestead, a civil penalty equal to 5 percent of the amount of the disallowed credit shall be assessed against the claimant in addition to the amount of credit allowed. The assessor, county auditor, and county board of supervisors shall act on the claim in accordance with Iowa Code section 425.3. A claim filed after July 1 of any calendar year applies to the following assessment year.

b. to f. No change.

g. For purposes of the homestead tax credit statute, the occupancy of the homestead may constitute actual occupancy or constructive occupancy. However, more than one homestead cannot be simultaneously occupied by the claimant and multiple simultaneous homestead tax credits are not allowable. ~~(Op. St. Bd. Tax Rev. No. 212, February 29, 1980.)~~ Generally, a homestead is occupied by the claimant if the premises constitute the claimant's usual place of abode. Once the claimant's occupancy of the homestead is established, such occupancy is not lost merely because the claimant, for some valid reason, is temporarily absent from the homestead premises with an intention of returning thereto ~~(1952 O.A.G. 78).~~

80.1(2) Eligibility for credit.

a. If homestead property is owned jointly by persons who are not related or formerly related by blood, marriage or adoption, no homestead tax credit shall be allowed unless all the owners actually occupy the homestead property on July 1 of each year. ~~(1944 O.A.G. 26; Letter O.A.G. October 18, 1944)~~

b. No homestead tax credit shall be allowed if the homestead property is owned or listed and assessed to a corporation, ~~other than a family farm corporation,~~ partnership, company or any other business or nonbusiness organization. ~~(1938 O.A.G. 441; Verne Deskin v. Briggs, State Board of Tax Review, No. 24, February 1, 1972)~~ However, a family farm corporation, as defined in Iowa Code section 9H.1, where a shareholder of the family farm corporation occupies a homestead, as defined in Iowa Code section 425.11(1), may receive the homestead tax credit.

c. A person acquiring homestead property under a contract of purchase remains eligible for a homestead tax credit even though such person has assigned ~~his or her~~ equity in the homestead property as security for a loan. ~~(1960 O.A.G. 263)~~

d. A person occupying homestead property pursuant to Iowa Code chapter 499A or 499B is eligible for a homestead tax credit. ~~(1978 O.A.G. 78-2-5; 1979 O.A.G. 79-12-2)~~

e. A person who has a life estate interest in homestead property shall be eligible for a homestead tax credit, provided the remainderman is related or formerly related to the life estate holder by blood, marriage or adoption or the reversionary interest is held by a nonprofit corporation organized under Iowa Code chapter 504A. ~~(1938 O.A.G. 193) 504.~~

REVENUE DEPARTMENT[701](cont'd)

f. A homestead tax credit may not be allowed upon a mobile home which is not assessed as real estate. (1962 O.A.G. 450)

g. A person occupying homestead property under a trust agreement is considered the owner of the property for purposes of the homestead tax credit. (1962 O.A.G. 434)

h. A remainder is not eligible to receive a homestead tax credit until expiration of the life estate to which such person has the remainder interest. (1938 O.A.G. 305)

i. In order for a person occupying homestead property under a contract of purchase to be eligible for a homestead tax credit, the contract of purchase must be recorded in the office of the county recorder where the property is located. A recorded memorandum or summary of the actual contract of purchase is not sufficient evidence of ownership to qualify a person for a homestead tax credit.

j. An owner of homestead property who is in the military service or confined in a nursing home, extended-care facility or hospital shall be considered as occupying the property during the period of service or confinement. The fact that the owner rents the property during the period of military service is immaterial to the granting of the homestead tax credit. (1942 O.A.G. 45) However, no homestead tax credit shall be allowed if the owner received a profit for the use of the property from another person while such owner is confined in a nursing home, extended-care facility or hospital.

k. A person owning a homestead dwelling located upon land owned by another person or entity is not eligible for a homestead tax credit. (1942 O.A.G. 160, O.A.G. 82-4-9) This rule is not applicable to a person owning a homestead dwelling pursuant to Iowa Code chapter 499B or a person owning a homestead dwelling on land owned by a community land trust pursuant to 42 U.S.C. Section 12773, provided that such a person is liable for and pays property tax on the homestead as required under Iowa Code section 425.11(1) "e."

l. An heir occupying homestead property that is part of an estate in the process of administration is considered an owner of the property and is eligible for the homestead credit. (1938 O.A.G. 272)

80.1(3) Disabled ~~veteran's homestead~~ veteran tax credit.

a. No change.

b. Under honorable conditions. A veteran, as defined in Iowa Code section 35.1, may qualify for the disabled veteran tax credit. In addition to the other requirements under Iowa Code section 35.1, to qualify as a veteran under Iowa Code section 35.1, an individual must have been discharged under honorable conditions from the armed forces of the United States, the reserve forces of the United States, the Iowa national guard, or the merchant marines. For purposes of benefits granted under Iowa Code section 425.15 and this rule, "under honorable conditions" means that the character of an enlisted member's discharge from the armed forces of the United States, the reserve forces of the United States, the Iowa national guard, or the merchant marines was "honorable" or "general (under honorable conditions)." "Under honorable conditions" does not include any other character of discharge, including but not limited to:

(1) Under other than honorable conditions;

(2) Dishonorable;

(3) Bad conduct;

(4) Uncharacterized; or

(5) A similar expression indicating that the discharge or release was not under honorable circumstances.

b. c. Application for credit. ~~Except for the 2014 assessment year, an~~ A valid application for the disabled veteran tax credit is subject to all of the following requirements:

(1) An application for the disabled veteran tax credit must be filed with the local assessor on or before July 1 of the assessment year. Any supporting documentation required by the assessor as evidence of a veteran's service-connected disability status or rating must be current within the previous 12 months of the date on which the application is filed. The filing deadline for applications for the 2014 assessment year shall be July 1, 2015. The credit applicable to assessment year 2014 shall be allowed only on a homestead which the owner occupied on July 1, 2014, and for at least six months during the 2014 assessment year.

REVENUE DEPARTMENT[701](cont'd)

(2) For persons applying for the disabled veteran tax credit under Iowa Code section 425.15(1) "a," "b," and "c," a DD-214 (Certificate of Release or Discharge from Active Duty), or an equivalent document indicating the veteran's type of separation and character of service, is required with an application for the credit to verify that the applicant meets the requirements of Iowa Code sections 425.15 and 35.1.

(3) For persons applying for the disabled veteran tax credit under Iowa Code section 425.15(1) "b" and "c," a U.S. Department of Veterans Affairs Benefit Summary Letter (also known as a Veteran Affairs award letter) stating the veteran's qualifying service-connected disability rating(s) is required with an application for the disabled veteran tax credit as certification of the veteran's service-connected disability by the U.S. Department of Veterans Affairs. Where a veteran seeks eligibility as a result of a permanent and total disability rating based on individual unemployability, the Benefit Summary Letter must also indicate that the veteran is entitled to individual unemployability that is compensated at the 100 percent disability rate.

d. *Multiple discharges.* A person who has received a nonqualifying character of discharge may still qualify for the disabled veteran tax credit if it is established through the required documents under paragraph 80.1(3) "c" that the person has a service-connected disability that is related to the person's service in the armed forces of the United States for which the person was discharged under honorable conditions, and the other requirements of Iowa Code section 425.15 and this rule are also met. In such a case, in addition to a DD-214, the applicant must include a DD-256 (Certificate of Honorable Discharge), a DD-257 (General Discharge Certificate), or an equivalent document from the relevant time of service with the application for the disabled veteran tax credit. The applicant's Benefit Summary Letter must also indicate the applicant's periods of service and each character of discharge.

e. *Amount of credit.* The amount of the credit is equal to the entire amount of tax payable on the homestead.

d. f. *Continuance of credit.* The credit shall continue to the estate or surviving spouse and child who are the beneficiaries of an owner described in subparagraph 80.1(3) "a"(1), (2), or (3) if the surviving spouse remains unmarried. If an owner or beneficiary of an owner ceases to qualify for the credit, the owner or beneficiary must notify the assessor of the termination of eligibility.

80.1(4) *Application of credit.*

a. Except as provided in paragraph 80.1(1) "a," if the homestead property is conveyed to another person prior to July 1 of any year, the new owner must file a claim for credit on or before July 1 to obtain the credit for that year. If the property is conveyed on or after July 1, the credit shall remain with the property for that year provided the previous owner was entitled to the credit. However, when the property is transferred as part of a distribution made pursuant to Iowa Code chapter 598 (Dissolution of Marriage) the transferee spouse retaining ownership and occupancy of the homestead is not required to refile for the credit.

b. A homestead tax credit may be allowed even though the property taxes levied against the homestead property have been suspended by the board of supervisors. (1938 O.A.G. 288)

c. A homestead tax credit shall not be allowed if the property taxes levied against the homestead property have been canceled or remitted by the board of supervisors. (1956 O.A.G. 78)

d. Only one homestead tax credit can be allowed per legally described tract of land. For purposes of this rule, a legally described tract of land shall mean all land contained in a single legal description. (1962 O.A.G. 435)

e. If the owner of homestead property is also eligible for a military service tax exemption and claims the exemption on the homestead property, the military service tax exemption shall be applied prior to the homestead tax credit when computing net property tax. (*Ryan v. State Tax Commission*, 235 Iowa 222, 16 N.W.2d 215)

f. to h. No change.

This rule is intended to implement Iowa Code chapter 425 as amended by 2006 Iowa Acts, House File 2794.

REVENUE DEPARTMENT[701](cont'd)

ITEM 2. Amend rule 701—80.2(22,35,426A) as follows:

701—80.2(22,35,426A) Military service tax exemption.

80.2(1) Application for exemption.

a. No military service tax exemption shall be allowed unless the first application for the military service tax exemption is signed by the owner of the property or the owner's qualified designee and filed with the city or county assessor on or before July 1 of the current assessment year (1970 O.A.G. 437). Once filed, the claim for exemption is applicable to subsequent years and no further filing shall be required provided the claimant or the claimant's spouse owns the property on July 1 of each year. The assessor, county auditor, and county board of supervisors shall act on the claim in accordance with Iowa Code section 426A.14. A claim filed after July 1 of any calendar year applies to the following assessment year.

b. to e. No change.

80.2(2) Eligibility for exemption.

a. A person who was discharged from the draft is not considered a veteran of the military service and is not entitled to a military service tax exemption. (1942 O.A.G. 79)

b. A military service tax exemption shall not be allowed to a person whose only service in the military was with a foreign government. (1932 O.A.G. 242; 1942 O.A.G. 79)

c. Former members of the United States armed forces, including members of the Coast Guard, who were on active duty for less than 18 months must have served on active duty during one of the war or conflict time periods enumerated in Iowa Code Supplement section 35.1. If former members were on active duty for at least 18 months, it is not necessary that their service be performed during one of the war or conflict time periods. Former members who opted to serve five years in the reserve forces of the United States qualify if any portion of their enlistment would have occurred during the Korean Conflict (June 25, 1950, to January 31, 1955). There is no minimum number of days a former member of the armed forces of the United States must have served on active duty if the service was performed during one of the war or conflict time periods, nor is there a minimum number of days a former member of the armed ~~forced~~ forces of the United States must have served on active duty if the person was honorably discharged because of a service-related injury sustained while on active duty.

Former and current members of the Iowa national guard and reserve forces of the United States need not have performed any active duty if they served at least 20 years. Otherwise, they must have been activated for federal duty, for purposes other than training, for a minimum of 90 days. Also, it is not a requirement for a member of the Iowa national guard or a reservist to have performed service within a designated war or conflict time period.

d. With the exception of members of the Iowa national guard and members of the reserve forces of the United States who have served at least 20 years and continue to serve, a military service tax exemption shall not be allowed unless the veteran has received a complete and final separation from active duty service. (*Jones v. Iowa State Tax Commission*, 247 Iowa 530, 74 N.W.2d 563, 567-1956; *In re Douglas A. Coyle*, State Board of Tax Review, No. 197, August 14, 1979; 1976 O.A.G. 44)

e. As used in Iowa Code subsection 426A.12(3), the term minor child means a person less than 18 years of age or less than 21 years of age and enrolled as a full-time student at an educational institution.

f. A veteran of more than one qualifying war period is entitled to only one military service tax exemption, which shall be the greater of the two exemptions. (1946 O.A.G. 71)

g. The person claiming a military service tax exemption must be an Iowa resident. ~~However~~ Therefore, if the exemption is claimed by a qualified individual enumerated in Iowa Code section 426A.12, the veteran need not be an Iowa resident if such person's exemption is claimed by a qualified but the individual enumerated in Iowa Code section 426A.12 claiming the exemption must be an Iowa resident. (1942 O.A.G. 140)

h. A person who has a life estate interest in property may claim a military service tax exemption on such property. (1946 O.A.G. 155; 1976 O.A.G. 125)

i. A remainder is not eligible to receive a military service tax exemption on property to which a remainder interest is held until expiration of the life estate. (1946 O.A.G. 155)

REVENUE DEPARTMENT[701](cont'd)

j. A military service tax exemption shall not be allowed on a mobile home which is not assessed as real estate. (1962 O.A.G. 450)

k. A divorced person may not claim the military service tax exemption of a former spouse who qualifies for the exemption. (Letter O.A.G. August 8, 1961)

l. A surviving spouse of a qualified veteran, upon remarriage, loses the right to claim the deceased veteran's military exemption as the surviving spouse is no longer an unremarried surviving spouse of the qualified veteran. (1950 O.A.G. 44)

m. An annulled marriage is considered to have never taken place and the parties to such a marriage are restored to their former status. Neither party to an annulled marriage can thereafter be considered a spouse or surviving spouse of the other party for purposes of receiving the military service tax exemption. (Op. Att'y. Gen. 61-8-10(L))

n. No military service tax exemption shall be allowed on property that is owned by a corporation, except for a family farm corporation where a shareholder occupies a homestead as defined in Iowa Code section 425.11(1), partnership, company or any other business or nonbusiness organization. (1938 O.A.G. 441) However, a family farm corporation, as defined in Iowa Code section 9H.1, where a shareholder of the family farm corporation occupies a homestead, as defined in Iowa Code section 425.11(1), may receive the military service tax exemption.

o. In the event both a husband and wife are qualified veterans, they may each claim their military service tax exemption on their jointly owned property. (1946 O.A.G. 154) If property is solely owned by one spouse, the owner spouse may claim both exemptions on the property providing the nonowner spouse's exemption is not claimed on other property.

p. No military service tax exemption shall be allowed if on July 1 of the claim year, the claimant or the claimant's unremarried surviving spouse is no longer the owner of the property upon which the exemption was claimed.

q. A person shall not be denied a military service tax exemption even though the property upon which the exemption is claimed has been pledged to another person as security for a loan. (1960 O.A.G. 263)

r. A qualified veteran who has conveyed property to a trustee shall be eligible to receive a military service tax exemption on such property providing the trust agreement gives the claimant a beneficial interest in the property. (1962 O.A.G. 434)

s. A person owning property pursuant to Iowa Code chapter 499A or 499B is eligible for a military service tax exemption. (1978 O.A.G. 78-2-5; 1979 O.A.G. 79-12-2)

t. and *u.* No change.

v. Under honorable conditions. A veteran, as defined in Iowa Code section 35.1, may qualify for the military service tax exemption. In addition to the other requirements under Iowa Code section 35.1, to qualify as a veteran under Iowa Code section 35.1, an individual must have been discharged under honorable conditions from the armed forces of the United States, the reserve forces of the United States, the Iowa national guard, or the merchant marines. For purposes of benefits granted under Iowa Code chapter 426A and this rule, "under honorable conditions" means that the character of an enlisted member's discharge from the armed forces of the United States, the reserve forces of the United States, the Iowa national guard, or the merchant marines was "honorable" or "general (under honorable conditions)." "Under honorable conditions" does not include any other character of discharge including but not limited to:

(1) Under other than honorable conditions;

(2) Dishonorable;

(3) Bad conduct;

(4) Uncharacterized; or

(5) A similar expression indicating that the discharge or release was not under honorable circumstances.

80.2(3) Application of exemption.

a. When the owner of homestead property is also eligible for a military service tax exemption and claims the exemption on the homestead property, the military service tax exemption shall be applied

REVENUE DEPARTMENT[701](cont'd)

prior to the homestead tax credit when computing net property tax. (*Ryan v. State Tax Commission*, 235 Iowa 222, 16 N.W.2d 215)

b. If a portion of the property upon which a valid military service tax exemption was claimed is sold on or before July 1 of the year in which the exemption is claimed, the seller shall be allowed a military service tax exemption on that portion of the property which is retained by the seller on July 1. The purchaser is also eligible to receive a military service tax exemption on that portion of the property which was purchased, provided the purchaser is qualified for the exemptions and files a valid application for the exemption on or before July 1 of the claim year.

c. A military service tax exemption may be allowed even though the taxes levied on the property upon which the exemption is claimed have been suspended by the board of supervisors. (~~1938 O.A.G. 288~~)

d. A military service tax exemption shall not be allowed if the taxes levied on the property upon which the exemption is claimed have been canceled or remitted by the board of supervisors. (~~1956 O.A.G. 78~~)

e. The county treasurer shall, pursuant to Iowa Code section 25B.7, be required to extend to the claimant only that portion of the exemption estimated by the department to be funded by the state appropriation.

This rule is intended to implement Iowa Code sections 22.7, 35.1, and 35.2 and chapter 426A.

ARC 5218C

REVENUE DEPARTMENT[701]

Notice of Intended Action

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

The Revenue Department hereby proposes to amend Chapter 211, "Definitions," and Chapter 226, "Agricultural Rules," 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 423.1 as amended by 2013 Iowa Acts, Senate File 452, section 125.

Purpose and Summary

During the 2013 Legislative Session, the General Assembly amended the definition of "agricultural production" to include "production from silvicultural activities" and the definition of "agricultural products" to include "silviculture." The legislature did not define silviculture at that time.

This rule making amends the Department's rules to reflect the addition of silviculture to Iowa Code section 423.1(5). Additionally, this rule making proposes a definition of "silviculture" and moves an existing definition of "aquaculture" out of a substantive rule and into a rule that consists of definitions. This rule making also proposes to create a single definition of "plants" and clarify when that definition applies in various rules.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. The addition of "silviculture" to the definition of "agricultural production" was estimated by the Legislative Services Agency to have no fiscal impact for 2013 Iowa Acts, Senate File 452.

REVENUE DEPARTMENT[701](cont'd)

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on October 27, 2020. Comments should be directed to:

Tim Reilly
Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306
Phone: 515.725.2294
Email: tim.reilly@iowa.gov

Public Hearing

If requested, a public hearing at which persons may present their views orally or in writing will be held as follows:

October 27, 2020
10 to 11 a.m.

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

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

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

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 **701—211.1(423)**, definitions of “Agricultural production” and “Plants,” as follows:

“*Agricultural production*” is limited to what would ordinarily be considered a farming operation undertaken for profit. The term “agricultural production” refers to the raising of crops or livestock for market on an acreage. *See Bezdek's Inc. v. Iowa Department of Revenue (Linn County District Court, May 14, 1984)*. Included within the meaning of the phrase “agricultural production” is any feedlot operation whether or not the land upon which a feedlot operation is located is used to grow crops to feed the livestock in the feedlot and regardless of whether or not the livestock fed are owned

REVENUE DEPARTMENT[701](cont'd)

by persons conducting the feedlot operation, and operations growing and raising hybrid seed corn or other seed for sale to nurseries, ranches, orchards, and dairies. "Agricultural production" includes the raising of flowering, ornamental, or vegetable plants in commercial greenhouses or elsewhere for sale in the ordinary course of business. "Agricultural production" also includes any kind of aquaculture; silviculture; commercial greenhouses; and raising catfish. ~~Logging, production of Christmas trees, beekeeping, Beekeeping~~ and the raising of mink, other nondomesticated furbearing animals, and nondomesticated fowl (other than ostriches, rheas, and emus) continue to be excluded from the term "agricultural production." The above list of exclusions and inclusions within the term "agricultural production" is not exhaustive. "Agricultural products" includes flowering, ornamental, or vegetable plants and those products of aquaculture and silviculture.

"Plants" means fungi such as mushrooms, and crops commonly grown in this state such as corn, soybeans, oats, hay, alfalfa hay, wheat, sorghum, and rye. Also included within the meaning of the term "plants" are flowers, ~~small~~ shrubs, and fruit trees. Excluded from the meaning of the term "plants" are products of silviculture, such as fir trees raised for Christmas trees and any trees raised to be harvested for wood.

ITEM 2. Adopt the following new definitions of "Aquaculture" and "Silviculture" in rule **701—211.1(423)**:

"*Aquaculture*" means the cultivation of aquatic animals and plants, including fish, shellfish, and seaweed, in natural or controlled marine or freshwater environments.

"*Silviculture*" means the growing and cultivation of trees. "Silvicultural activities" includes logging. "Silvicultural products" include fir trees raised for Christmas trees and any trees raised to be harvested for wood.

ITEM 3. Amend subrule 226.12(1) as follows:

226.12(1) Definitions. For purposes of this rule, the following definitions apply:

"*Aquaculture*" means the ~~cultivation of aquatic animals and plants, including fish, shellfish, and seaweed, in natural or controlled marine or freshwater environments~~ same as defined in rule 701—211.1(423).

"*Fuel*" includes electricity.

"*Implement of husbandry*" means the same as defined in rule 701—211.1(423).

"*Livestock*" means the same as defined in rule 701—211.1(423) and includes domesticated fowl.

~~"Plants" means flowering, ornamental, or vegetable plants intended for sale in the ordinary course of business. The term does not include trees, shrubs, other woody perennials, or fungi.~~

ITEM 4. Amend paragraph **226.12(2)"b"** as follows:

b. Fuel used for flowering, ornamental, or vegetable plant production buildings.

(1) Sales of fuel for heating or cooling greenhouses, buildings, or parts of buildings used for the production of flowering, ornamental, or vegetable plants intended for sale in the ordinary course of business are exempt from tax. See subparagraph (3) for the formula for calculating exempt use if a building is only partially used for growing flowering, ornamental, or vegetable plants.

(2) Fuel used in a flowering, ornamental, or vegetable plant production building for purposes other than heating or cooling (e.g., lighting) or for purposes other than direct use in flowering, ornamental, or vegetable plant production (e.g., heating or cooling office space) is not eligible for this exemption. Examples of nonexempt purposes for which a portion of a greenhouse might be used include, but are not limited to, portions used for office space;₂ loading docks;₂ storage of property other than flowering, ornamental, or vegetable plants;₂ housing of heating and cooling equipment;₂ and packaging flowering, ornamental, or vegetable plants for shipment.

(3) Calculating proportional exemption. It may be possible to calculate the amount of total fuel used in plant production by dividing the number of square feet of the greenhouse heated or cooled and used for raising flowering, ornamental, or vegetable plants by the number of square feet heated or cooled in the entire greenhouse. It may be necessary to alter this formula (by the use of separate metering, for example) if a greenhouse has a walk-in cooler and the cooler is used directly in flowering, ornamental, or

REVENUE DEPARTMENT[701](cont'd)

vegetable plant production. See 701—subrule 15.3(3) regarding fuel exemption certificates and subrule 226.18(12) regarding seller’s and purchaser’s liability for sales tax.

EXAMPLE 1: Bill Brown’s herb farming operation has a separate greenhouse used to grow his herbs. All other aspects of his farm operations are conducted in other facilities. Because the greenhouse is used exclusively for raising flowering, ornamental, or vegetable plants, Bill Brown is able to claim exemption from sales tax on the cost of fuel used to heat and cool the greenhouse.

EXAMPLE 2: Martha Green’s greenhouse has a separate meter to track the electricity used only for heating or cooling. Her greenhouse is used partially for growing flowering, ornamental, or vegetable plants and partially for a nonexempt purpose. Martha Green is able to claim a proportional exemption from sales tax on the cost of fuel used to heat and cool her growing flowering, ornamental, or vegetable plants. Martha Green calculates her exempt amount by dividing the number of heated or cooled square feet of her greenhouse that are used for raising flowering, ornamental, or vegetable plants by the total number of square feet heated or cooled in the entire greenhouse.

Total square footage used for raising <u>flowering, ornamental, or vegetable</u> plants	=	800
Total square footage	=	1,000
TOTAL:	$800 \div 1,000$	= .80 or 80%

Thus, 80 percent of the cost of the fuel used to heat and cool Martha Green’s greenhouse is exempt from sales tax.

ITEM 5. Amend subrule 226.18(1) as follows:

226.18(1) The sales or rentals of machinery, equipment, and replacement parts used in the production of flowering, ornamental, and vegetable plants are exempt from sales and use tax. The production of flowering, ornamental, or vegetable plants by a grower in a commercial greenhouse or at another location is considered to be a part of agricultural production and exempt from sales tax. The term “flowering, ornamental, or vegetable plants” does not include ~~trees, shrubs, other woody perennials,~~ silvicultural products or fungi.

ITEM 6. Rescind and reserve paragraph **226.18(2)“c.”**

ITEM 7. Amend subrules 226.18(6) and 226.18(7) as follows:

226.18(6) Sales of self-propelled implements. Sales of self-propelled implements or implements customarily drawn or attached to self-propelled implements and replacement parts for the same are exempt from tax if the implements are used directly and primarily in the production of flowering, ornamental, or vegetable plants in commercial greenhouses or elsewhere. Exempt implements include, but are not limited to, forklifts used to transport pallets of flowering, ornamental, or vegetable plants, wagons containing sterilized soil, and tractors used to pull these items.

226.18(7) Sales of machinery and equipment used in flowering, ornamental, or vegetable plant production which are not self-propelled or attached to self-propelled machinery and equipment are exempt from tax. Rule 701—226.19(423) includes nonexclusive examples of machinery and equipment which are not self-propelled or attached to self-propelled machinery and equipment and which are directly and primarily used in flowering, ornamental, or vegetable plant production.

ARC 5217C

UTILITIES DIVISION[199]

Notice of Intended Action

**Proposing rule making related to electric lines
and providing an opportunity for public comment**

The Utilities Board hereby proposes to amend Chapter 11, “Electric Lines,” Iowa Administrative Code.

UTILITIES DIVISION[199](cont'd)

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code chapter 478.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 478.

Purpose and Summary

The Utilities Board conducted a comprehensive review of its Chapter 11 administrative rules in accordance with Iowa Code section 17A.7(2). Based upon comments received at an Administrative Rules Review Committee meeting, the Board proposes the rules for electric lines be amended. The Chapter 11 rules are proposed to be amended to address stakeholder concerns.

On September 4, 2020, the Board issued an order commencing rule making. The order is available on the Board's electronic filing system, efs.iowa.gov, under Docket No. RMU-2020-0011.

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

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Board no later than 4:30 p.m. on October 27, 2020. Comments should be directed to:

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

Public Hearing

An oral presentation at which persons may present their views orally or in writing will be held as follows:

December 3, 2020
9 a.m. to 12 noon

Board Hearing Room
1375 East Court Avenue
Des Moines, Iowa

Persons who wish to make oral comments at the oral presentation 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 oral presentation and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

UTILITIES DIVISION[199](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 199—11.2(478) as follows:

199—11.2(478) Definitions. For the administration and interpretation of this chapter, the following words and terms, when used in these rules, shall have the meanings indicated below:

“Affected person” means any person with a ~~recorded~~ legal right or interest in the property, including but not limited to a landowner, contract purchaser of record, a ~~tenant occupying the property or person~~ possessing the property under a ~~recorded~~ lease, a record lienholder, and a record encumbrancer of the property. ~~The term also includes persons in possession of or residing on the property and persons with unrecorded interests in property that have been identified through a good faith effort of the electric company.~~

“Board” means the utilities board within the utilities division of the department of commerce.

“Capable of operating” means the standard voltage rating at which the electric line, wire, or cable can be operated consistent with the level of the insulators and the conductors used in construction of the electric line, wire, or cable based on manufacturer's specifications, industry practice, and applicable industry standards.

“Electric company” means any person that proposes to construct, erect, maintain, or operate an electric line, wire, or cable in Iowa.

“Person” means individual, corporation, limited liability company, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity as defined in Iowa Code section 4.1(20).

“Termini” means the electrically functional end points of an electric line, without which it could not serve a public use. Examples of termini may include, but are not limited to, generating stations, substations, or switching stations.

“Transmission line” means any electric line, wire, or cable capable of operating at 69 kilovolts or more.

ITEM 2. Amend subrule 11.3(3) as follows:

11.3(3) Railroad crossings. ~~Where these rules call for~~ When the construction of a transmission line requires the consent or other showing of right from a railroad for a railroad crossing, an affidavit filed by an electric company may file an affidavit, which states that proper application for approval of the railroad crossing has been made, that a one-time crossing fee has been paid as provided for in rule 199—42.3(476), and that 35 days have passed since mailing of the application and payment with no claim of special circumstance or objection from the railroad. No claim of special circumstance or objection from the railroad will be accepted as a showing of consent for the crossing. Such affidavit or an affirmative statement of consent from the railroad shall be filed as soon as possible and must be filed prior to commencement of construction of the railroad crossing. A franchise may be issued subject to the filing of such consent.

ITEM 3. Amend subparagraph **11.5(1)“d”(6)** as follows:

(6) A copy of the route study, if any, which was performed in determining the location of the proposed transmission line. If an electric company has received all necessary voluntary easements at the time the petition is filed, a copy of the route study is not required to be filed with the petition.

ARC 5221C

ALCOHOLIC BEVERAGES DIVISION[185]

Adopted and Filed Emergency

**Rule making related to filling and sale of mixed drinks or cocktails
in a container other than the original**

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 2020 Iowa Acts, House File 2540.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 123.30, 123.43A and 123.49.

Purpose and Summary

This rule making adopts a new rule establishing how a container other than the original container shall be filled with a mixed drink or cocktail, 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” and class “C” native distilled spirits liquor control licensees.

The Department of Transportation and the Department of Public Safety were consulted in the writing of this rule. The two departments are responsible for cooperating to ensure the proper and adequate enforcement of Iowa Code chapter 321, “Motor Vehicles and Law of the Road,” which establishes Iowa’s open container laws. The Department of Public Safety is also the primary alcoholic beverage control law enforcement authority in Iowa, pursuant to Iowa Code section 123.14.

The Department of Transportation advised the Division on the types of allowable container-sealing methods that would demonstrate an effort to comply with state and federal open container laws. The Department recommended that the sealing methods be precisely described in the rule because vague or undefined sealing methods could jeopardize millions of dollars of federal highway funds allocated to the State of Iowa. According to a notice issued July 1, 2020, by the U.S. Department of Transportation Federal Highway Administration, over \$541 million was allocated to Iowa in federal FY 2020 under the Fixing America’s Surface Transportation (FAST) Act. Transfer or withholding penalties are applied to states that are found to be in noncompliance with federal open container requirements (23 U.S.C. §154). Iowa was not assessed any penalties for open container requirement noncompliance in federal FY 2020. The Division believes that the rule, as written, should not lead to any future findings of noncompliance.

The Department of Public Safety advised the Division on the types of containers that should not be allowed to be used in the sale of mixed drinks and cocktails to go. The Department recommended that paper, plastic, and Styrofoam cups be prohibited due to the ease of use or access the containers provide and the ability for consumers to conceal consumption while driving, which the Department felt would pose serious dangers to the motoring public and hamper the Department’s enforcement efforts. The rule prohibits all paper and Styrofoam cups from being used, and prohibits plastic cups that are intended for single use only. Plastic cups that are intended to be reused by a consumer are not prohibited.

Additionally, the Division requested from the Iowa Restaurant Association examples of the containers and sealing methods being used by licensees in the marketplace. Two examples were provided by the Association, and those examples were incorporated into the rule making in paragraphs 4.10(3)“b” and 4.10(3)“c.”

Finally, the Iowa Alliance of Coalitions for Change, a group of public health and substance misuse experts from across the state, submitted a letter and proposals to be considered for the rule. Some of the recommendations exceeded what the Division felt to be within its rule-making authority; however, a recommendation to require labeling on the container clearly marking the contents as containing alcohol

ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

was accepted. The Department of Public Safety also supported a labeling requirement, indicating that the requirement would assist in its roadside enforcement efforts. As such, a labeling requirement was included in the rule making in subrule 4.10(4).

The Division crafted this rule based on the recommendations of key state agency partners. Stakeholder feedback was also incorporated into the rule. Overall, the Division feels that this rule is reasonable and balances the legal and social responsibilities of protecting the public with the business needs of licensees.

*Reason for Adoption of Rule Making Without
Prior Notice and Opportunity for Public Participation*

Pursuant to Iowa Code section 17A.4(3), the Division finds that notice and public participation are unnecessary or impractical because statute so provides. 2020 Iowa Acts, House File 2540, allows the Division to adopt emergency rules under Iowa Code sections 17A.4(3) and 17A.5(2)“b” to implement the provisions of the Act related to mixed drinks and cocktails to go.

Reason for Waiver of Normal Effective Date

Pursuant to Iowa Code section 17A.5(2)“b”(1)(a), the Division also finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective on October 1, 2020, because 2020 Iowa Acts, House File 2540, allows the Division to adopt emergency rules under Iowa Code sections 17A.4(3) and 17A.5(2)“b” to implement the provisions of the Act related to mixed drinks and cocktails to go.

Adoption of Rule Making

This rule making was adopted by the Administrator, with approval of the Alcoholic Beverages Commission, on September 11, 2020.

Concurrent Publication of Notice of Intended Action

In addition to its adoption on an emergency basis, this rule making has been initiated through the normal rule-making process and is published herein under Notice of Intended Action as **ARC 5220C** to allow for public comment.

Fiscal Impact

This rule making has a potential fiscal impact to the State of Iowa. According to the Iowa Department of Transportation, approximately \$12.2 million in federal funds appropriated to Iowa under the FAST Act could be jeopardized if Iowa is found to be noncompliant with the federal open container requirements found in 23 U.S.C. §154. This rule making, as written, precisely describes the sealing methods to be used when mixed drinks and cocktails are sold to go so that the sealed containers are not considered open containers. Vague or undefined sealing methods increase the potential for Iowa to be found noncompliant with 23 U.S.C. §154. The fiscal impact of this rule making to class “C” and class “C” native distilled spirits liquor control licensees is indeterminable.

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 1, 2020.

The following rule-making action is adopted:

Adopt the following **new** rule 185—4.10(123):

185—4.10(123) Filling and selling of mixed drinks or cocktails in a container other than the original container. Class “C” and class “C” native distilled spirits liquor control licensees and the licensee's employees may fill and sell mixed drinks or cocktails in a container other than the original container subject to the requirements and restrictions provided in 2020 Iowa Acts, House File 2540, sections 10, 11, 12, and 13, and this rule.

4.10(1) Definitions.

“*Alcoholic liquor*,” for the purposes of this rule, means “alcoholic liquor” as defined in Iowa Code section 123.3(5).

“*Mixed drink or cocktail*,” for the purposes of this rule, means “mixed drink or cocktail” as defined in Iowa Code section 123.3(32).

“*Native distilled spirits*,” for the purposes of this rule, means “native distilled spirits” as defined in Iowa Code section 123.3(34).

“*Original container*,” for the purposes of this rule, means a vessel containing alcoholic liquor or native distilled spirits that has been lawfully obtained and has been securely capped, sealed, or corked at the location of manufacture.

“*Sealed container*,” for the purposes of this rule, means a vessel containing a mixed drink or cocktail that is designed to prevent consumption without removal of the tamper-evident lid, cap, or seal. “Sealed container” does not include a container with a lid with sipping holes or openings for straws, a cup made of plastic that is intended for one-time use, or a cup made of paper or polystyrene foam.

“*Tamper-evident*,” for the purposes of this rule, means a lid, cap, or seal that visibly demonstrates when a container has been opened.

4.10(2) Filling requirements.

a. A sealed container shall be filled and sold only by the licensee or the licensee's employees who are 18 years of age or older.

b. A sealed container shall be filled only upon receipt of an order by a consumer of legal age.

c. A sealed container shall be filled only with mixed drinks or cocktails composed in whole or in part with alcoholic liquor or native distilled spirits from an original container purchased from a class “E” liquor licensee.

d. The filling of a sealed container shall at all times be conducted in compliance with applicable state and federal food safety statutes and regulations.

4.10(3) Sealing requirements. A sealed container shall bear one of the following tamper-evident sealing methods:

a. A plastic heat shrink wrap band, strip, or sleeve extending around the cap or lid to form a seal that must be broken when the container is opened.

b. A screw top cap or lid that breaks apart when the container is opened.

c. A vacuum or heat-sealed pouch containing the mixed drink or cocktail.

ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

4.10(4) Labeling requirements. A sealed container shall bear a label affixed to the container in a conspicuous place legibly indicating the following information:

- a. The business name of the licensee that sold the mixed drink or cocktail.
- b. The words "CONTAINS ALCOHOL."

4.10(5) Sealed container not deemed an open container. A sealed container shall not be deemed an open container, subject to the requirements of Iowa Code sections 321.284 and 321.284A, provided the sealed container is unopened, the seal has not been tampered with, and the contents of the sealed container have not been partially removed.

4.10(6) Restrictions.

- a. A sealed container shall not be filled in advance of a sale.
- b. A sealed container shall not meet the definition of "canned cocktail" as defined in Iowa Code section 123.3(11).
- c. A licensee or a licensee's employees shall not allow a consumer to fill a sealed container.
- d. The filling and selling of a sealed container shall be limited to the hours in which alcoholic beverages may be legally sold.
- e. A sealed container shall not be sold to any consumer who is under legal age, intoxicated, or simulating intoxication.

4.10(7) Record keeping requirements.

a. A licensee shall maintain records, in printed or electronic format, of all sales of sealed containers. The records shall state the following:

- (1) The business name of the licensee that sold the mixed drink or cocktail.
- (2) The date and time of the sale.
- (3) A description of the product sold.

b. A licensee shall keep the required records for a three-year period from the date the record was created.

c. Records shall be open to inspection pursuant to Iowa Code section 123.30(1), and may be subject to administrative subpoena issued by the administrator.

4.10(8) Violations. Failure to comply with the requirements and restrictions of this rule shall subject the licensee to the penalty provisions provided in Iowa Code chapter 123.

This rule is intended to implement Iowa Code sections 123.30, 123.43A, and 123.49.

[Filed Emergency 9/14/20, effective 10/1/20]

[Published 10/7/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/7/20.

ARC 5227C

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed Emergency After Notice

Rule making related to improving and expanding the IHAP program

The Natural Resource Commission hereby amends Chapter 22, "Wildlife Habitat on Private Lands Promotion Program and Habitat and Public Access Program," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 483A.3B(3)"c"(1).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 483A.3B(3).

NATURAL RESOURCE COMMISSION[571](cont'd)

Purpose and Summary

The Iowa Habitat and Access Program (“IHAP” or “program”) was started in 2011. The program exists to encourage private landowners to voluntarily open their lands to public hunting in exchange for on-site wildlife habitat technical and financial assistance from the Department of Natural Resources (Department). The program’s eligibility criteria, application processes, and assessment standards are spelled out in Chapter 22.

The Commission is adopting two changes to the program, the only ones to date since its development. These changes are aimed at making improvements to the agreement and growing IHAP in a sustainable way. Hunters are excited to grow the program, and there is high landowner interest in enrolling. These changes will allow both to occur more easily.

First, the adoption by reference of the program’s agreement template is stricken. During the program’s initial roll-out, the program’s agreement template was adopted by reference in order to provide extra levels of transparency. Nearly a decade into this very popular program, this extra level of transparency is no longer necessary. Other rules in the chapter outline the agreement’s overall scope and general terms, and those rules shall remain. Additionally, the agreement’s template shall continue to be available on the Department’s website. Second, the Commission is striking language that requires the Department to directly hire the habitat contractor. This amendment will enable the Department to pay the enrolled landowner directly if the landowner is competent to do the habitat work, or allow the landowner to personally hire the contractor of choice and pay for that work with allotted IHAP funds.

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 5112C**. A virtual public hearing was held on August 18, 2020, at 1 p.m. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Reason for Waiver of Normal Effective Date

Pursuant to Iowa Code section 17A.5(2)“b”(1)(b), the Commission finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective upon filing on September 17, 2020, because the rule making confers a benefit on current or future Iowa Habitat and Access Program (IHAP) participants to the benefit of both them and Iowa’s sportsmen and women.

Adoption of Rule Making

This rule making was adopted by the Commission on September 10, 2020.

Fiscal Impact

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

Jobs Impact

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

Waivers

This rule is subject to the waiver provisions of 571—Chapter 11. Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any.

NATURAL RESOURCE COMMISSION[571](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 became effective on September 17, 2020.

The following rule-making action is adopted:

Amend rule 571—22.14(456A,483A) as follows:

571—22.14(456A,483A) Agreements. The commission shall enter into “Iowa Management and Access Program Agreements,” ~~version 4-15-11 that is located~~ available on the department's Web site at ~~<http://www.iowadnr.gov/wildlife/privatelands/mgt-access.html>~~ website as well as through the department's central office, ~~and incorporated by reference herein,~~ with approved landowners to carry out the purposes of this program.

22.14(1) No change.

22.14(2) Grant funds. Habitat development money is only available if an agreement has been signed by both parties. ~~No funds shall be paid directly to the landowner, but rather shall go to a habitat development contractor hired by the department.~~ This is not a cost-share program; the department is solely responsible for all habitat development cost.

22.14(3) to 22.14(5) No change.

[Filed Emergency After Notice 9/17/20, effective 9/17/20]

[Published 10/7/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/7/20.

ARC 5222C**COLLEGE STUDENT AID COMMISSION[283]****Adopted and Filed****Rule making related to loan repayment programs**

The College Student Aid Commission hereby amends Chapter 14, “Health Care Professional Recruitment Program,” Chapter 24, “Rural Iowa Primary Care Loan Repayment Program,” and Chapter 26, “Health Care Loan Repayment Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 261.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 261 as amended by 2020 Iowa Acts, Senate File 2118.

Purpose and Summary

This adopted rule making implements amendments enacted by 2020 Iowa Acts, Senate File 2118. These amendments allow a recipient of a loan repayment program administered by the Commission who refinances an eligible student loan by obtaining a private education loan to continue to receive loan repayment awards.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 12, 2020, as **ARC 5124C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Commission on September 18, 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 Commission for a waiver of the discretionary provisions, if any, pursuant to 283—Chapter 7.

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).

COLLEGE STUDENT AID COMMISSION[283](cont'd)

Effective Date

This rule making will become effective on November 11, 2020.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 14.2(4) as follows:

14.2(4) *Eligible loans.* Eligible loans include subsidized and unsubsidized Stafford loans, Grad PLUS loans and consolidated loans. Only the outstanding portion of a Federal Consolidation Loan that was used to repay an eligible subsidized or unsubsidized Federal Stafford Loan, an eligible Direct Subsidized Loan, an eligible Direct Unsubsidized Loan, or an eligible Grad PLUS Loan qualifies for loan repayment. A health care professional who receives loan repayment under this program and who refinances an eligible loan by obtaining a private educational loan may continue to receive loan repayment awards.

ITEM 2. Amend rule **283—24.2(261)**, definition of “Eligible loan,” as follows:

“*Eligible loan*” means the physician’s total subsidized, unsubsidized, and consolidated Federal Stafford Loan amount under the Federal Family Education Loan Program, Federal Direct Loan Program, federal Graduate PLUS Loan, or federal Perkins Loan, including principal and interest. Only the outstanding portion of a federal consolidation loan that was used to repay an eligible subsidized or unsubsidized Federal Stafford Loan qualifies for loan repayment. A physician who receives loan repayment under this program and who refinances an eligible loan by obtaining a private educational loan may continue to receive loan repayment awards.

ITEM 3. Amend rule **283—26.2(261)**, definition of “Qualified student loan,” as follows:

“*Qualified student loan*” means a loan that was made, insured, or guaranteed under Title IV of the federal Higher Education Act of 1965, as amended, or under Title VII or VIII of the federal Public Health Service Act, as amended, directly to the borrower for attendance at an approved postsecondary institution. Only the outstanding portion of a federal consolidation loan that was used to repay a qualified student loan qualifies for loan repayment. A recipient who refinances a qualified student loan by obtaining a private educational loan may continue to receive loan repayment awards.

[Filed 9/18/20, effective 11/11/20]

[Published 10/7/20]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 10/7/20.

ARC 5223C

COLLEGE STUDENT AID COMMISSION[283]

Adopted and Filed

Rule making related to future ready Iowa skilled workforce last-dollar scholarship program

The College Student Aid Commission hereby amends Chapter 15, “Future Ready Iowa Skilled Workforce Last-Dollar Scholarship Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 261.3 and 2020 Iowa Acts, House File 2629, sections 18 and 19.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 261.

COLLEGE STUDENT AID COMMISSION[283](cont'd)

Purpose and Summary

The adopted rule making implements amendments enacted by 2020 Iowa Acts, House File 2629, sections 18 and 19, and makes several additional technical corrections.

2020 Iowa Acts, House File 2629, sections 16 and 17, expand student eligibility under the program; the administrative rules have been amended to reflect those changes.

In addition, the technical amendments ensure that students whose enrollment is disrupted due to military deployment, medical incapacity, or a declared disaster can apply for a waiver to the continuous enrollment provision; specify that students may receive a scholarship award in the semester that their credential will be completed if their remaining credits do not equate to at least half-time enrollment; add two definitions; and update statutory references.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 12, 2020, as **ARC 5125C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Commission on September 18, 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 Commission for a waiver of the discretionary provisions, if any, pursuant to 283—Chapter 7.

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 November 11, 2020.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** definitions of “Adult learner” and “Approved state-recognized work-based learning program” in rule **283—15.2(261)**:

“*Adult learner*” means an eligible student who attains the age of 20 as of July 1 prior to the year of enrollment and who has not received an award under subparagraph 15.3(1) “j”(1) or 15.3(1) “j”(2).

“*Approved state-recognized work-based learning program*” means a structured educational and training program that includes authentic worksite training and is approved by the Iowa department of education.

COLLEGE STUDENT AID COMMISSION[283](cont'd)

ITEM 2. Amend subrule 15.3(1) as follows:

15.3(1) An applicant of the future ready Iowa skilled workforce last-dollar scholarship program must:

a. to *i.* No change.

j. Meet one of the following ~~two~~ three conditions:

(1) Enroll Prior to becoming an adult learner, enroll on a full-time basis during the fall semester immediately following graduation from an Iowa high school, or completion of private instruction under Iowa Code chapter 299A, or receipt of a high school equivalency diploma under Iowa Code chapter 259A, and maintain continuous enrollment on a full-time basis in subsequent terms semesters, with the exception of the summer semester, to receive additional awards. An eligible student must enroll on at least a part-time basis during the summer semester to receive an award. An eligible student may enroll in fewer than 12 semester hours, or the equivalent, in the semester that the credential will be completed if full-time enrollment is not required to complete the program of study.

(2) Prior to becoming an adult learner, and following graduation from an Iowa high school, completion of private instruction under Iowa Code chapter 299A, or receipt of a high school equivalency diploma under Iowa Code chapter 259A, enter into full-time or part-time employment in a state-recognized work-based learning program approved by the Iowa department of education and enroll on a full-time or part-time basis and maintain continuous enrollment on a full-time or part-time basis in subsequent terms to receive additional awards. An eligible student may enroll in fewer than six semester hours, or the equivalent, in the semester that the credential will be completed if half-time enrollment is not required to complete the program of study.

(~~2~~) (3) Following receipt of a high school diploma or high school equivalency diploma, and ~~on~~ or after attaining the age of 20 after becoming an adult learner, enroll on a full-time or part-time basis in an eligible program at an eligible institution, and maintain continuous enrollment on a full-time or part-time basis in subsequent terms semesters to receive additional awards. ~~Ages are calculated on July 1 prior to the year of enrollment.~~ An eligible student may enroll in fewer than six semester hours, or the equivalent, in the semester that the credential will be completed if half-time enrollment is not required to complete the program of study.

If the student is granted a leave of absence by discontinues enrollment at the eligible institution in accordance with provisions of the federal Higher Education Act of 1965, as amended, due to military deployment, a temporary medical incapacity, in relation to the declaration of a national or state emergency, or other exceptional circumstances approved by the commission, the student must apply for a waiver. If the waiver is approved, the student is not required to maintain continuous enrollment during the period covered by the approved leave of absence waiver.

ITEM 3. Amend subrule 15.5(1) as follows:

15.5(1) An eligible program must lead to a credential aligned with a high-demand job pursuant to 2018 Iowa Acts, House File 2458, section 7, as amended by 2019 Iowa Acts, House File 758, section 12 Iowa Code section 84A.1B(14).

[Filed 9/18/20, effective 11/11/20]

[Published 10/7/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/7/20.

ARC 5224C

COLLEGE STUDENT AID COMMISSION[283]

Adopted and Filed

Rule making related to rural veterinarian loan repayment program

The College Student Aid Commission hereby adopts new Chapter 27, "Rural Veterinarian Loan Repayment Program," Iowa Administrative Code.

COLLEGE STUDENT AID COMMISSION[283](cont'd)

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 261.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 261 as amended by 2020 Iowa Acts, Senate File 2398.

Purpose and Summary

This rule making implements a new loan repayment program enacted in 2020 Iowa Acts, Senate File 2398.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 12, 2020, as **ARC 5123C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Commission on September 18, 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 Commission for a waiver of the discretionary provisions, if any, pursuant to 283—Chapter 7.

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 November 11, 2020.

The following rule-making action is adopted:

Adopt the following **new** 283—Chapter 27:

CHAPTER 27
RURAL VETERINARIAN LOAN REPAYMENT PROGRAM

283—27.1(261) Rural veterinarian loan repayment program. The rural veterinarian loan repayment program is a state-supported and state-administered loan repayment program established to repay the

COLLEGE STUDENT AID COMMISSION[283](cont'd)

eligible loans of veterinarians who agree to practice in service commitment areas or in veterinary shortage areas for four consecutive years and meet the requirements of these rules.

283—27.2(261) Definitions. As used in this chapter:

“Eligible loan” means the veterinarian’s total subsidized, unsubsidized, and consolidated Federal Stafford Loan amount under the Federal Family Education Loan Program, Federal Direct Loan Program, or federal Graduate PLUS Loan, including principal and interest. Only the outstanding portion of a federal consolidation loan that was used to repay an eligible subsidized or unsubsidized Federal Stafford Loan qualifies for loan repayment.

“Eligible university” means a college or university that offers a veterinary medicine degree program; is eligible to participate in federal student aid programs authorized under Title IV of the federal Higher Education Act of 1965, as amended; and is accredited by the American Veterinary Medical Association Council on Education.

“Food supply veterinary medicine” means corporate and private practices devoted to food animal medicine, mixed animal medicine, food safety, epidemiology, public health, animal health, and other public and private practices that contribute to the production of a safe and wholesome food supply.

“Maximum award” means the maximum amount of loan repayments that the veterinarian can receive after completing all obligations under the rural veterinarian loan repayment program, not to exceed a total of \$60,000. The maximum award can be applied only to eligible loans; thus, payments cannot exceed the outstanding eligible loan balance at the time of payment.

“Service commitment area” means an Iowa city with a population of less than 26,000 that is located more than 20 miles from a city with a population of 50,000 or more. If a veterinarian is not working in a veterinary shortage area but is working in a service commitment area, the veterinarian must contract with the service commitment area to ensure the service commitment area provides a nonrefundable contribution equivalent to 12.5 percent of the veterinarian’s eligible loan balance for deposit in the rural veterinarian trust fund. The veterinarian’s eligible loan balance will be calculated after the program agreement is signed. Payment of the nonrefundable contribution to the trust fund can be made by, but is not limited to, the following organizations: community agencies, medical groups, municipalities, community foundations, local government entities, or other community entities. Locations and distances between cities will be consistently measured and verified by calculating the shortest travel distance on paved roads.

“Veterinarian” means an individual who holds a practitioner’s license pursuant to Iowa Code chapter 169 and is engaged in the practice of veterinary medicine in a service commitment area or a veterinary shortage area in Iowa.

“Veterinary shortage area” means a designated veterinary service shortage in Iowa recommended for designation in accordance with the federal National Veterinary Medical Service Act and published by the United States Department of Agriculture. Data from the most recent year for which data is available will be used to award funds to new eligible applicants. In addition to the veterinary shortage areas published by the United States Department of Agriculture, the state veterinarian may designate additional veterinary shortage areas in Iowa. All veterinary shortage areas designated in a given year will be published by the commission prior to soliciting applications from eligible applicants.

283—27.3(261) Eligible applicant. An individual who is enrolled in the final year of a veterinary degree program at an eligible university or who has received a veterinary medicine degree from an eligible university within the past five years may sign a program agreement. The individual must commit to meeting the eligibility requirements described in rule 283—27.4(261).

283—27.4(261) Eligibility requirements.

27.4(1) In order to be considered an eligible veterinarian under the program, the eligible applicant must:

a. Complete an application and sign a program agreement by the date(s) specified by the commission.

COLLEGE STUDENT AID COMMISSION[283](cont'd)

- b. Complete a doctor of veterinary medicine degree, or the equivalent, at an eligible university.
- c. Within one year of completing a doctor of veterinary medicine degree, or the equivalent, or signing a program agreement, whichever is most recent, an eligible applicant must have a permanent license to practice veterinary medicine under Iowa Code chapter 169 and engage in full-time practice as a veterinarian in a service commitment area or veterinary shortage area in Iowa.

Prior to engaging in the practice of veterinary medicine in a service commitment area or veterinary shortage area, the veterinarian must notify the commission of the service commitment area or veterinary shortage area in which the veterinarian will be engaged in veterinary practice, and the commission will verify the eligibility of the service commitment area or veterinary shortage area.

27.4(2) Eligible applicants not working in a veterinary shortage area. Prior to or upon engagement in full-time practice in a service commitment area, the veterinarian must contract with a service commitment area to provide a nonrefundable contribution for deposit in the rural veterinarian trust fund. The nonrefundable contribution must be received by the commission from a service commitment area prior to payment of any loan repayment awards.

27.4(3) Failure by the applicant to meet all eligibility requirements under this rule and in the program agreement will result in forfeiture of all remaining unpaid payments.

283—27.5(261) Priority for program agreements.

27.5(1) In the event that all on-time eligible applicants cannot be funded with the available appropriation, program agreements will be prioritized as follows:

- a. Eligible applicants who will practice as private practice food supply veterinarians in a veterinary shortage area and have graduated from an Iowa high school or completed private instruction under Iowa Code chapter 299A; followed by eligible applicants who will practice as private practice food supply veterinarians in a veterinary shortage area and have not graduated from an Iowa high school or completed private instruction under Iowa Code chapter 299A.

- b. Eligible applicants who will practice as private practice food supply veterinarians in a service commitment area and have graduated from an Iowa high school or completed private instruction under Iowa Code chapter 299A; followed by eligible applicants who will practice as private practice food supply veterinarians in a service commitment area and have not graduated from an Iowa high school or completed private instruction under Iowa Code chapter 299A.

- c. Eligible applicants who will practice as a veterinarian in a service commitment area and have graduated from an Iowa high school or completed private instruction under Iowa Code chapter 299A; followed by eligible applicants who will practice as veterinarians in a service commitment area and have not graduated from an Iowa high school or completed private instruction under Iowa Code chapter 299A.

27.5(2) In the event that all on-time eligible applicants within a priority group described in subrule 27.5(1) cannot be funded, eligible applicants within that priority group will be prioritized according to the date the application was received by the commission.

283—27.6(261) Awarding of funds.

27.6(1) The maximum award will be paid to the veterinarian's eligible loan holder in four equal installments, upon successful completion of each of four 12-month practice obligations. Failure to complete all, or any portion, of the four-consecutive-year practice obligation will result in the forfeiture of all remaining unpaid payments. A veterinarian who fails to meet the requirements of these rules may also be subject to repayment of moneys advanced by the service commitment area or veterinary shortage area as provided in any contract between the veterinarian and the service commitment area or veterinary shortage area.

27.6(2) An eligible applicant must annually complete and return to the commission an affidavit of completion of practice in a service commitment area or veterinary shortage area.

283—27.7(261) Waivers.

27.7(1) *Service commitment area or veterinary shortage area.* The commission may waive the requirement that the veterinarian practice in the same service commitment area or veterinary shortage

COLLEGE STUDENT AID COMMISSION[283](cont'd)

area for four years as long as the veterinarian continues to practice in a service commitment area or veterinary shortage area. The veterinarian must request a waiver from the commission in writing.

27.7(2) *Postponement of veterinarian practice.* The veterinarian obligation to engage in practice in accordance with rule 283—27.4(261) may be postponed for no more than two years from the time full-time practice was to commence. The veterinarian must request a waiver from the commission in writing for one of the following purposes:

- a. Active duty service in the armed forces, the armed forces military reserve, or the national guard.
- b. Service in Volunteers in Service to America or the federal Peace Corps.
- c. A rural service commitment to the United States Public Health Service Commissioned Corps.
- d. A period of religious missionary work conducted by an organization exempt from federal income taxation pursuant to Section 501(c)(3) of the Internal Revenue Code.

The veterinarian obligation to engage in practice in accordance with rule 283—27.4(261) may be postponed for a period exceeding two years for any period of temporary medical incapacity, including leave approved under the Family and Medical Leave Act, during which the veterinarian is unable to engage in full-time practice. The veterinarian must request a waiver from the commission in writing.

27.7(3) *Satisfaction of the veterinarian practice obligation.* All obligations under the rural veterinarian loan repayment program are considered to be satisfied when any of the following conditions are met:

- a. All terms of the agreement are met.
- b. The person who entered into the agreement dies.
- c. The person who entered into the agreement, due to permanent disability, is unable to meet the requirements of these rules.
- d. The person who entered into the agreement has no remaining eligible loan balance to repay.

283—27.8(261) Loan repayment cancellation.

27.8(1) Within 30 days following termination of practice as a veterinarian in a service commitment area or a veterinary shortage area, the applicant must notify the commission.

27.8(2) The applicant is responsible for notifying the commission immediately of a change in contact information including, but not limited to, name, telephone number, email address, and location of practice.

283—27.9(261) Restrictions.

27.9(1) A veterinarian who is in default on a Federal Stafford Loan, Grad PLUS Loan, SLS Loan, Perkins/National Direct/National Defense Student Loan, Health Professions Student Loan (HPSL), or Health Education Assistance Loan (HEAL) or who owes a repayment on any Title IV grant assistance or state award shall be ineligible for loan repayment. Eligibility may be reinstated upon payment in full of the delinquent obligation or by commission ruling on the basis of adequate extenuating evidence presented in appeal under the procedures set forth in 283—Chapters 4 and 5.

27.9(2) A veterinarian who participated in and received loan repayment awards through the veterinary medicine loan repayment program administered by the United States Department of Agriculture is ineligible to enter into a program agreement or receive loan repayment benefits under this program.

These rules are intended to implement Iowa Code section 261.120 as enacted by 2020 Iowa Acts, Senate File 2398.

[Filed 9/18/20, effective 11/11/20]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/7/20.

ARC 5226C

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Rule making related to aquatic life water quality criteria

The Environmental Protection Commission (Commission) hereby amends Chapter 61, “Water Quality Standards,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 455B.173(2).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 455B.173(2).

Purpose and Summary

The purpose of these amendments is to update the current aquatic life water quality criteria with the latest scientific information on metal toxicity. Research has established dissolved metals (except for aluminum) more closely approximate the bioavailable fraction of metals in the water column rather than total recoverable metals (the current criteria). This new data indicates that the dissolved portion of metals in the water column is the portion that is most easily absorbed by aquatic life and is therefore a better measure of toxicity. Thus, measuring for total recoverable metals, in light of the new data, is an overly stringent approach. Because of this research, the Commission is converting the aquatic life water quality criteria from total recoverable metals to dissolved metals based on available conversion factors for the following metals: arsenic (III), cadmium, chromium (VI), lead, mercury, nickel, silver, and zinc. In addition, the aquatic life criteria for cadmium will be recalculated from the U.S. Environmental Protection Agency (EPA)-published 2016 national criteria for Iowa waters based on the resident aquatic species residing in Iowa waters.

Unlike other metals, some non-dissolved forms of aluminum can be toxic to aquatic life. As a result, the Commission is adopting aluminum aquatic life water quality criteria in the form of bioavailable concentration values, which include both dissolved and some non-dissolved (colloidal) aluminum which can be toxic to aquatic life. The aluminum criteria also take into account new data which establish that aluminum bioavailability is dependent upon ambient levels of certain chemical parameters in the receiving stream, like pH, dissolved organic carbon, and hardness. These criteria were developed using the EPA’s 2017 toxicity data and site-specific water chemistry data for Iowa waters. The criteria also provide wastewater permittees the option of collecting data specific to the permittee’s own receiving stream. The Commission believes that the aluminum criteria will provide greater flexibility to wastewater permittees while still protecting aquatic life.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 3, 2020, as **ARC 5044C**. A public hearing was held virtually on June 23, 2020, at 1 p.m. One oral comment was received during the virtual hearing. Six written comments were received during the public comment period. Comments were received from Arconic, Iowa Association of Business and Industry (ABI), the Aluminum Association, and ISG. Comments from Arconic, ABI, and the Aluminum Association were supportive of the rule making and requested clarification and greater specificity related to footnote (r) in Item 3. The comment from ISG requested clarification on implementation of dissolved metals criteria in National Pollutant Discharge Elimination System permits.

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Three changes from the Notice were made in response to these comments. First, footnote (o) in Item 3 has been updated to ensure site-specific aluminum criteria may be calculated by including a sentence about the calculation of site-specific criteria.

Second, footnote (r) in Item 3 has been updated to better differentiate aluminum criteria as bioavailable, which is different than criteria that are expressed as “dissolved.” Footnote (r) in Item 3 now references the bioavailable “portion” of aluminum, rather than the bioavailable “fraction” of aluminum. This avoids confusion caused by the word “fraction,” which could have other scientific meanings related to water quality criteria than what is intended in this rule making.

The third change ensures uniformity between this final rule and the rule-referenced Iowa Wasteload Allocation Procedure (WLAP). The WLAP sets out on page 77 that “Iowa’s numerical chemical criteria are expressed in total recoverable concentrations,” which is inconsistent with this final rule. This has been corrected by deleting that sentence. The WLAP now has a new effective date of November 11, 2020, in Item 4, which has been added as a change from the Notice.

Adoption of Rule Making

This rule making was adopted by the Commission on September 15, 2020.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa but will have a positive fiscal impact on the private sector. Thirty facilities are currently subject to the existing aluminum criteria. Of these 30 facilities, 7 facilities have had aluminum permit limit violations, currently have a compliance schedule for aluminum, or will have a compliance schedule in their upcoming wastewater permit, and have enough data for evaluation. The Commission estimates that three of those seven facilities will be able to comply with the proposed aluminum criteria and will therefore be able to avoid the cost of installing aluminum removal technology. The Commission estimates this savings to be \$42,503,000.

Currently, 81 facilities are subject to the rest of the metals criteria (arsenic (III), cadmium, chromium (VI), lead, mercury, nickel, silver, and zinc). The Commission estimates that 13 facilities will be able to comply with the dissolved metal criteria in this rule making and will therefore be able to avoid the cost of installing metals removal technology. The Commission estimates the savings to be between \$42,746,700 and \$52,763,000.

Therefore, the Commission estimates a total of 16 facilities may receive projected cost savings ranging from approximately \$85 million to \$95 million.

A copy of the fiscal impact statement is available from the Department upon request.

Jobs Impact

After analysis and review of this rule making, these amendments are expected to have a positive impact on jobs. Overall, this rule change will result in a savings ranging from \$85 million to \$95 million for wastewater dischargers across the state. This savings will be achieved by dischargers who will be able to avoid the installation of costly treatment technology because of their ability to protect aquatic life in a more reasonable manner.

The potential costs associated with this rule making are negligible. The savings resulting from this rule making will have a positive impact on private sector jobs and employment opportunities in the state. Lower wastewater treatment costs at industrial facilities are expected to have a positive impact on jobs because industries can put the savings toward investment in their businesses, including new hiring. Similarly, businesses and industries that discharge to municipal wastewater treatment plants will benefit from lower utility rates if the municipal wastewater treatment plant can lower its operating costs as a result of this rule making. That savings on utility rates for businesses and industries can be put toward investment in their companies to create jobs.

A copy of the jobs impact statement is available from the Department upon request.

ENVIRONMENTAL PROTECTION COMMISSION[567](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 561—Chapter 10, as adopted by reference in rule 567—13.1(17A), to the extent such waiver is consistent with federal water quality standards requirements.

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 November 11, 2020.

The following rule-making actions are adopted:

ITEM 1. Amend subrule **61.3(3)**, TABLE 1, Criteria for Chemical Constituents, parameters for aluminum, arsenic (III), cadmium, chromium (VI), lead, mercury (II), nickel, silver, and zinc, as follows:

Aluminum	Chronic ^(r)	87 890 ^(o)	—	87 890 ^(o)	87 890 ^(o)	87 890 ^(o)	748 890 ^(o)	—	—
	Acute ^(r)	1406 2,500 ^(o)	—	750 2,500 ^(o)	750 2,500 ^(o)	750 2,500 ^(o)	983 2,500 ^(o)	—	—
Arsenic (III)	Chronic ^(p)	200 150	—	150	150	150	200 150	—	—
	Acute ^(p)	360 340	—	340	340	340	360 340	—	—
	Human Health — Fish	—	—	—	—	—	—	—	50 ^{(e)(g)}
	Human Health — F & W	—	—	—	—	—	—	—	.18 ^{(f)(g)}
Cadmium	Chronic ^(p)	4 1.2 ^(h)	—	4.5 1.2 ^(h)	4.5 1.2 ^(h)	4.5 1.2 ^(h)	4 1.2 ^(h)	—	—
	Acute ^(p)	4 3.4 ^(h)	—	4.32 5.35 ^(h)	4.32 12.5 ^(h)	4.32 12.5 ^(h)	4 5.35 ^(h)	—	—
	Human Health + — Fish	—	—	—	—	—	—	—	168 ^(e)
	MCL	—	—	—	—	—	—	5	—
Chromium (VI)	Chronic ^(p)	40 11	—	11	11	11	40 11	—	—
	Acute ^(p)	60 16	—	16	16	16	45 16	—	—
	Human Health + — Fish	—	—	—	—	—	—	—	3365 ^(e)
	MCL	—	—	—	—	—	—	100	—
Lead	Chronic ^(p)	3 5.3 ⁽ⁱ⁾	—	7.7 5.3 ⁽ⁱ⁾	7.7 5.3 ⁽ⁱ⁾	7.7 5.3 ⁽ⁱ⁾	3 5.3 ⁽ⁱ⁾	—	—
	Acute ^(p)	80 136 ⁽ⁱ⁾	—	197 136 ⁽ⁱ⁾	197 136 ⁽ⁱ⁾	197 136 ⁽ⁱ⁾	80 136 ⁽ⁱ⁾	—	—
	MCL	—	—	—	—	—	—	50	—
Mercury (II)	Chronic ^(p)	3.5 0.77	—	9 0.77	9 0.77	9 0.77	9.4 0.77	—	—
	Acute ^(p)	6.5 1.4	—	1.64 1.4	1.64 1.4	1.64 1.4	1.7 1.4	—	—
	Human Health + — Fish	—	—	—	—	—	—	—	.15 ^(e)
	Human Health + — F & W	—	—	—	—	—	—	—	.05 ^(f)

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Nickel	Chronic ^(p)	350 93 ^(k)	—	93 ^(k)	93 ^(k)	93 ^(k)	150 93 ^(k)	—	—
	Acute ^(p)	3250 840 ^(k)	—	843 840 ^(k)	843 840 ^(k)	843 840 ^(k)	1400 840 ^(k)	—	—
	Human Health + — Fish	—	—	—	—	—	—	—	4600 ^(e)
	Human Health + — F & W	—	—	—	—	—	—	—	610 ^(f)
Silver	Chronic ^(p)	N/A	—	N/A	N/A	N/A	N/A	—	—
	Acute ^(p)	30 11	—	3.8 11	3.8 11	3.8 11	4 11	—	—
	MCL	—	—	—	—	—	—	50	—
Zinc	Chronic ^(p)	200 210 ^(l)	—	215 210 ^(l)	215 210 ^(l)	215 210 ^(l)	100 210 ^(l)	—	—
	Acute ^(p)	220 210 ^(l)	—	215 210 ^(l)	215 210 ^(l)	215 210 ^(l)	110 210 ^(l)	—	—
	Human Health + — Fish	—	—	—	—	—	—	—	26* ^(e)
	Human Health + — F & W	—	—	—	—	—	—	—	7.4* ^(f)

ITEM 2. Amend subrule 61.3(3), TABLE 1, footnotes (h), (j), (k), and (l), as follows:

(h) Class B(WW-1), B(WW-2), and B(WW-3) The acute and chronic criteria listed in main table are based on a hardness of 200 mg/l (as CaCO₃ (mg/l)). Numerical criteria (µg/l) for cadmium are a function of hardness (as CaCO₃ (mg/l)) using the equation for each use according to the following table equations:

	B(WW-1) B(CW1)	B(WW-2) B(WW-1)&B(LW)	B(WW-3) B(WW-2)&B(WW-3)
Acute	$\frac{e^{[1.0166 \ln(\text{Hardness}) - 3.924]} (1.136672) - [(\ln \text{hardness}) \times (0.041838)]^*}{e^{(0.9789 \times \ln(\text{hardness}) - 3.866)}}$	$\frac{e^{[1.0166 \ln(\text{Hardness}) - 3.924]} (1.136672) - [(\ln \text{hardness}) \times (0.041838)]^*}{e^{(0.9789 \times \ln(\text{hardness}) - 3.4210)}}$	$\frac{e^{[1.0166 \ln(\text{Hardness}) - 3.924]} (1.136672) - [(\ln \text{hardness}) \times (0.041838)]^*}{e^{(0.9789 \times \ln(\text{hardness}) - 2.5750)}}$
Chronic	$\frac{e^{[0.7409 \ln(\text{Hardness}) - 4.719]} (1.101672) - [(\ln \text{hardness}) \times (0.041838)]^*}{e^{0.7977 \times \ln(\text{hardness}) - 3.909}}$	$\frac{e^{[0.7409 \ln(\text{Hardness}) - 4.719]} (1.101672) - [(\ln \text{hardness}) \times (0.041838)]^*}{e^{0.7977 \times \ln(\text{hardness}) - 3.909}}$	$\frac{e^{[0.7409 \ln(\text{Hardness}) - 4.719]} (1.101672) - [(\ln \text{hardness}) \times (0.041838)]^*}{e^{0.7977 \times \ln(\text{hardness}) - 3.909}}$

(j) Class B(WW-1), B(WW-2), and B(WW-3) The acute and chronic criteria listed in main table are based on a hardness of 200 mg/l (as CaCO₃ (mg/l)). Numerical criteria (µg/l) for lead are a function of hardness (CaCO₃ (mg/l)) using the equation for each use according to the following table equations:

	B(WW-1)	B(WW-2)	B(WW-3)
Acute	$\frac{(1.46203 - [(\ln \text{hardness})(0.145712)]) \times}{e^{[1.2731 \ln(\text{Hardness}) - 1.46]}}$	$e^{[1.2731 \ln(\text{Hardness}) - 1.46]}$	$e^{[1.2731 \ln(\text{Hardness}) - 1.46]}$
Chronic	$\frac{(1.46203 - [(\ln \text{hardness})(0.145712)]) \times}{e^{[1.2731 \ln(\text{Hardness}) - 4.705]}}$	$e^{[1.2731 \ln(\text{Hardness}) - 4.705]}$	$e^{[1.2731 \ln(\text{Hardness}) - 4.705]}$

(k) Class B(WW-1), B(WW-2), and B(WW-3) The acute and chronic criteria listed in main table are based on a hardness of 200 mg/l (as CaCO₃ (mg/l)). Numerical criteria (µg/l) for nickel are a function of hardness (CaCO₃ (mg/l)) using the equation for each use according to the following table equations:

	B(WW-1)	B(WW-2)	B(WW-3)
Acute	$0.998 \times e^{[0.846 \ln(\text{Hardness}) + 2.255]}$	$e^{[0.846 \ln(\text{Hardness}) + 2.255]}$	$e^{[0.846 \ln(\text{Hardness}) + 2.255]}$
Chronic	$0.997 \times e^{[0.846 \ln(\text{Hardness}) + 0.0584]}$	$e^{[0.846 \ln(\text{Hardness}) + 0.0584]}$	$e^{[0.846 \ln(\text{Hardness}) + 0.0584]}$

(l) Class B(WW-1), B(WW-2), and B(WW-3) The acute and chronic criteria listed in main table are based on a hardness of 200 mg/l (as CaCO₃ (mg/l)). Numerical criteria (µg/l) for zinc are a function of hardness (CaCO₃ (mg/l)) using the equation for each use according to the following table equations:

	B(WW-1)	B(WW-2)	B(WW-3)
Acute	$0.978 \times e^{[0.8473 \ln(\text{Hardness}) + 0.884]}$	$e^{[0.8473 \ln(\text{Hardness}) + 0.884]}$	$e^{[0.8473 \ln(\text{Hardness}) + 0.884]}$
Chronic	$0.986 \times e^{[0.8473 \ln(\text{Hardness}) + 0.884]}$	$e^{[0.8473 \ln(\text{Hardness}) + 0.884]}$	$e^{[0.8473 \ln(\text{Hardness}) + 0.884]}$

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

ITEM 3. Adopt the following **new** footnotes (o), (p), (q), and (r) in subrule **61.3(3)**, TABLE 1, Criteria for Chemical Constituents:

- (o) The acute and chronic criteria listed in Table 1 are calculated using Aluminum Criteria Calculator V2.0 (Excel) as described in "Final Aquatic Life Ambient Water Quality Criteria for Aluminum 2018 (EPA-822-R-18-001), December 2018." The criteria were calculated using the lowest tenth percentile of individual model outputs using spatially and temporally representative model inputs from across the state. Site-specific criteria shall also be developed using this approach and the most recent version of the calculator.
- (p) The criteria are expressed as dissolved concentration.
- (q) The silver criteria listed in Table 1 are based on a hardness of 200 mg/l (as CaCO₃ (mg/l)). Numerical criteria (µg/l) for silver are a function of hardness (CaCO₃ (mg/l)) using the following equation:
Acute $0.85 \times e^{[1.72 \ln(\text{Hardness}) - 6.59]}$
- (r) The criteria are expressed as the bioavailable portion of aluminum.

ITEM 4. Strike "as revised on February 21, 2018" wherever it appears in **567—Chapter 61** and insert "as revised on November 11, 2020" in lieu thereof.

[Filed 9/17/20, effective 11/11/20]

[Published 10/7/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/7/20.

ARC 5198C

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed

Rule making related to zoning of Mississippi River in Lansing

The Natural Resource Commission (Commission) hereby amends Chapter 40, "Boating Speed and Distance Zoning," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 462A.3, 462A.26(2) and 462A.32.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 462A.26 and 462A.32.

Purpose and Summary

Pursuant to Iowa Code section 17A.7, Friends of Pool 9 petitioned the Commission to amend Chapter 40. Friends of Pool 9 represents businesses along the waterfront of the Mississippi River in Lansing, Iowa. Petitioners have indicated that the safety of patrons loading and unloading onto waterfront docks is put at risk by the wakes of passing boats rocking and jolting the docks. To remedy this, Friends of Pool 9 requested that the Commission designate a no-wake zone located along a portion of Lansing marked by buoys and extending no more than 300 feet into the Mississippi River channel, starting 800 feet north of river mile marker 662.2 and proceeding to Lansing City Marina Dike. However, the no-wake zone does not apply to commercial barge traffic. The zone will be marked with permanent signage placed on the north and south shorelines, and no-wake buoys will be placed every 1,500 feet for the length of the no-wake zone. Friends of Pool 9 will be responsible for the placement and maintenance of the buoys designating the no-wake zone.

The Commission supports this change. The Commission agrees that a no-wake zone will ensure the safety of patrons while they are loading and unloading at local businesses, which benefits Allamakee County's tourism and local economy. The change does not significantly affect general use of the river

NATURAL RESOURCE COMMISSION[571](cont'd)

in this area, because the no-wake zone will not extend more than 300 feet into the Mississippi River channel and will not include commercial barge traffic.

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 5079C**. A virtual public hearing was held on August 4, 2020, at 1 p.m. 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 Commission on September 10, 2020.

Fiscal Impact

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

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found. However, the City of Lansing is a large tourist community for the county and positively impacts the local economy. A copy of the jobs impact statement is available from the Department upon request.

Waivers

This rule making is subject to the waiver provisions of 571—Chapter 11. Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any.

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 November 11, 2020.

The following rule-making action is adopted:

Adopt the following **new** rule 571—40.62(462A):

571—40.62(462A) Zoning of the Mississippi River, Lansing, Allamakee County.

40.62(1) All vessels, except commercial barge traffic, shall be operated at a speed not greater than 5 miles per hour within an area extending 300 feet from shore and beginning at a point 800 feet north of river mile marker 662.2 and proceeding to Lansing City Marina Dike.

NATURAL RESOURCE COMMISSION[571](cont'd)

40.62(2) The Friends of Pool 9 shall designate and maintain the 5-mile-per-hour speed zone with buoys approved by the natural resource commission.

This rule is intended to implement Iowa Code sections 462A.26 and 462A.32.

[Filed 9/17/20, effective 11/11/20]

[Published 10/7/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/7/20.

ARC 5225C

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Rule making related to licensure of psychologists

The Board of Psychology hereby amends Chapter 240, "Licensure of Psychologists," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code chapter 154B and section 147.36.

State or Federal Law Implemented

This rule making is adopted under the authority provided in Iowa Code chapter 154B and section 147.36.

Purpose and Summary

This rule making replaces the current rule on definitions with a new rule to which definitions of Association of State and Provincial Psychology Boards ("ASPPB") and "clinical experience" have been added and from which outdated definitions of "organized health service training program," "reciprocal license," "recognized health service setting," "supervisor," and "testing service" have been omitted. This rule making also adds respecialization certificates from accredited academic programs as a requirement for licensure, adopts current terminology and makes technical changes to the application requirements. Lastly, this rule making amends title designations, amends the requirements for off-site supervised postdoctoral experience, clarifies the requirements for health service provider certification, amends the requirements for the organized health service training program, amends the requirements for licensure by endorsement, and makes nonsubstantive technical changes.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on March 25, 2020, as **ARC 5002C**. No public comments were received. One change from the Notice has been made to correct the name of an organization in Item 12.

Adoption of Rule Making

This rule making was adopted by the Board on August 28, 2020.

Fiscal Impact

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

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Jobs Impact

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

Waivers

A waiver provision is not included in this rule making because all administrative rules of the professional licensure boards in the Professional Licensure Division are subject to the waiver provisions 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 November 11, 2020.

The following rule-making actions are adopted:

ITEM 1. Rescind rule 645—240.1(154B) and adopt the following **new** rule in lieu thereof:

645—240.1(154B) Definitions. For purposes of these rules, the following definitions shall apply:

“*Active license*” means a license that is current and has not expired.

“*ASPPB*” means the Association of State and Provincial Psychology Boards.

“*Board*” means the board of psychology.

“*Certified health service provider in psychology*” means a person who works in a clinical setting, who is licensed to practice psychology and who has a doctoral degree in psychology. A person certified as a health service provider in psychology shall be deemed qualified to diagnose or evaluate mental illness and nervous disorders.

“*Clinical experience*” means the provision of health services in psychology by the applicant to individuals or groups of clients/patients. Clinical experience does not include teaching or research performed in an academic setting.

“*Grace period*” means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“*Licensee*” means any person licensed to practice as a psychologist or health service provider in psychology in the state of Iowa.

“*License expiration date*” means June 30 of even-numbered years.

“*Licensure by endorsement*” means the issuance of an Iowa license to practice psychology to an applicant who is or has been licensed in another jurisdiction.

“*Mandatory training*” means training on identifying and reporting child abuse or dependent adult abuse required of psychologists who are mandatory reporters. The full requirements on mandatory reporting of child abuse and the training requirements are found in Iowa Code section 232.69. The full requirements on mandatory reporting of dependent adult abuse and the training requirements are found in Iowa Code section 235B.16.

“*National examination*” means the Examination for Professional Practice in Psychology (EPPP).

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

“*Provisional license*” means a license issued to a person who has met the educational qualifications for licensure and is engaged in professional experience under supervision.

“*Reactivate*” or “*reactivation*” means the process as outlined in rule 645—240.14(17A,147,272C) by which an inactive license is restored to active status.

“*Reinstatement*” means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

ITEM 2. Amend rule 645—240.2(154B) as follows:

645—240.2(154B) Requirements for licensure. The following criteria shall apply to licensure:

~~240.2(1)~~ The following criteria shall apply to licensure:

~~a. 240.2(1)~~ An applicant shall complete a board-approved application packet. Application forms may be obtained from the board’s Web site (~~http://www.idph.state.ia.us/licensure~~) website at idph.iowa.gov/Licensure or directly from the board office. All applications shall be sent to Board of Psychology, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075. The applicant may complete the application online at ibplicense.iowa.gov.

~~b. 240.2(2)~~ An applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board.

~~c. 240.2(3)~~ Each application shall be accompanied by the appropriate fees payable to the Board of Psychology. The fees are nonrefundable.

~~d. 240.2(4)~~ Except as otherwise stated in these rules, no application will be considered by the board until:

(1) ~~a.~~ Official copies of academic transcripts sent directly from the school to the board of psychology have been received by the board; and

(2) ~~b.~~ Satisfactory evidence of the candidate’s qualifications has been supplied in writing on the prescribed forms by the candidate’s supervisors.

~~e. 240.2(5)~~ An applicant shall successfully pass the national examination.

~~f. 240.2(6)~~ The applicant shall have the national examination score sent directly from the ~~testing service~~ ASPPB to the board.

~~g. Rescinded IAB 9/24/08, effective 10/29/08.~~

~~h. 240.2(7)~~ Incomplete applications that have been on file in the board office for more than two years without additional supporting documentation shall be:

(1) ~~a.~~ Considered invalid and shall be destroyed; or

(2) ~~b.~~ Maintained upon written request of the applicant. The applicant is responsible for requesting that the file be maintained.

~~240.2(2) and 240.2(3)~~ Rescinded IAB 9/4/02, effective 10/9/02.

ITEM 3. Amend rule 645—240.3(154B) as follows:

645—240.3(154B) Educational qualifications. ~~A new~~ An applicant for licensure to practice as a psychologist shall possess a doctoral degree in psychology.

~~240.3(1)~~ ~~The degree in psychology shall be granted by an institution accredited by the North Central Association of Colleges and Secondary Schools or an equivalent accrediting association or entity in other regions of the United States.~~

~~240.3(2)~~ Rescinded IAB 9/24/08, effective 10/29/08.

~~240.3(3)~~ 240.3(1) Unless otherwise stated in these rules, at At the time of an applicant’s graduation:

a. The program from which the doctoral degree in psychology is granted must be:

(1) Accredited by the American Psychological Association; or

(2) Accredited by the Canadian Psychological Association; or

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

(3) Designated by the Association of State and Provincial Psychology Boards (ASPPB)/National Register Designation Project as a doctoral program in psychology ASPPB/National Register; or

b. The applicant must hold a specialty diploma by examination current board certification from the American Board of Professional Psychology; or

c. The applicant must possess a postdoctoral respecialization certificate from a program accredited by the American Psychological Association.

~~240.3(4) Rescinded IAB 9/18/13, effective 10/23/13.~~

~~240.3(5)~~ **240.3(2)** Foreign-trained psychologists who possess a doctoral degree in psychology and who do not meet the requirements of subrule 240.3(1) shall:

a. Provide an equivalency evaluation of their educational credentials by the National Register of Health Service Providers in Psychology Psychologists, 1120 G Street NW 1200 New York Avenue NW, Suite 330 800, Washington, D.C. 20005, telephone (202)783-7663, Web site website www.nationalregister.org, or by an evaluation service with membership in the National Association of Credentials Evaluation Services, Inc., at www.naces.org. A certified translation of documents submitted in a language other than English shall be provided. The candidate shall bear the expense of the curriculum evaluation and translation of application documents. The educational credentials must be equivalent to programs stated in ~~240.3(3)~~ subrule 240.3(1).

b. Provide a notarized copy of the doctoral degree certificate or diploma awarded to the applicant from a psychology program in the country in which the applicant was educated.

c. Submit evidence of meeting all other requirements for licensure stated in these rules.

d. Receive a final determination from the board regarding the application for licensure.

ITEM 4. Amend rule 645—240.4(154B) as follows:

645—240.4(154B) Examination requirements. An applicant must pass the national examination to be eligible for licensure in Iowa.

240.4(1) To be eligible to take the national examination, the applicant shall:

a. Meet all requirements of ~~subrule 240.2(1), paragraphs “a” to “e”~~ subrules 240.2(1) to 240.2(3);

b. Provide official copies of academic transcripts sent directly from the school to the board of psychology; and

c. Provide the completed supervision registration form according to the instructions on the form.

240.4(2) Notification of an applicant’s eligibility for the examination shall be ~~sent~~ transmitted by the board office to the ~~testing service~~ online examination portal of the ASPPB.

240.4(3) The EPPP passing score shall be utilized as the Iowa passing score.

240.4(4) The board of psychology shall ~~mail~~ provide examination results to the applicant.

~~240.4(5) Rescinded IAB 9/24/08, effective 10/29/08.~~

ITEM 5. Rescind rule 645—240.5(154B) and adopt the following new rule in lieu thereof:

645—240.5(154B,147) Title designations.

240.5(1) Applicants for licensure who have met educational requirements and who are fulfilling the experience requirements specified herein for licensure may be designated “psychology resident” or “resident in psychology.” The designation of “resident” shall not be used except in the employment and supervised experience that meet the requirements of subrules 240.6(1) and 240.6(2).

240.5(2) Persons who possess provisional licenses shall add the designation “provisional license in psychology” following the “resident” designation.

240.5(3) A licensed psychologist who possesses a doctoral degree may use the prefix “Dr.” or “Doctor” but shall add after the person’s name the word “psychologist.”

ITEM 6. Amend paragraph **240.6(1)“a”** as follows:

a. Be a minimum of ~~one year on a full- or part-time basis for no less than 1500 hours, or be a minimum of 1500 hours that are completed in no less than 10~~ ten months;

ITEM 7. Amend paragraph **240.6(2)“b”** as follows:

b. To meet the requirements of the supervised professional experience, the supervisor must:

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

(1) ~~Be a licensed psychologist as specified in rule 645—240.1(154B)~~ who, during the time in which supervision is provided, is actively licensed in the jurisdiction where the supervision occurs;

(2) to (4) No change.

(5) ~~Work in the same physical setting as the supervisee unless a completed off-site supervision form is submitted to, and approved by the board~~ Have reasonable access to the clinical records corresponding to the work being supervised;

(6) to (8) No change.

(9) Not supervise any psychological practice or permit the supervisor's supervisee to engage in any psychological practice which the supervisor cannot perform competently; ~~and~~

(10) Be responsible for determining competency of the work performed by the supervisee and the designation of the title of the supervisee.; ~~and~~

(11) Work in the same physical setting as the supervisee, or if the supervisee is working off-site, ensure the off-site location has a licensed mental health provider or primary care provider on-site whenever the supervisee is working for purposes of providing emergency consultation. A supervisee may work off-site at a K-12 school without the need for on-site consultation by a licensed mental health provider or primary care provider.

ITEM 8. Rescind subrule 240.7(1) and adopt the following **new** subrule in lieu thereof:

240.7(1) *Requirements for the health service provider in psychology.* The applicant shall:

a. Verify at least one year of clinical experience in an organized health service training program that meets the requirements of subrule 240.7(2) and at least one year of clinical experience in a health service setting that meets the requirements for supervised professional experience stated in subrules 240.6(1) and 240.6(2). Alternatively, an applicant may submit verification of current registration at the doctoral level by the National Register of Health Service Providers in Psychology to verify completion of the required clinical experience.

b. Complete a board-approved application and submit supporting documentation. Application forms may be obtained from the board's website at idph.iowa.gov/Licensure or directly from the board office. All applications shall be sent to the Board of Psychology, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075. The applicant may complete the application online at ibplicense.iowa.gov. An applicant shall complete the application according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board. Incomplete applications that have been on file in the board office for more than two years without additional supporting documentation shall be:

(1) Considered invalid and shall be destroyed; or

(2) Maintained upon written request of the applicant. The applicant is responsible for requesting that the file be maintained.

c. Submit with the application the health service provider fee payable to the Board of Psychology. The fee is nonrefundable.

d. Renew the certificate biennially at the same time as the psychology license.

ITEM 9. Amend subrule 240.7(2) as follows:

240.7(2) *Requirements of the organized health service training program.* Internship programs in professional psychology that are accredited by the ~~Commission on Accreditation of the American Psychological Association (APA)~~ or the Canadian Psychological Association (CPA) or that hold membership in the Association of Psychology Postdoctoral and Internship Centers (APPIC) are deemed approved. Applicants completing an organized health service training program that is not ~~APA-approved~~ accredited by the APA or the CPA, or is not APPIC-designated at the time the applicant completes the training shall cause documentation to be sent from the program to establish that the program:

a. and b. No change.

c. Has two or more doctoral-level psychologists on the staff who serve as primary supervisors and are, at least one of whom is actively licensed by the board of psychology in the jurisdiction in which the program exists.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

d. Has supervision that is provided by staff members of the organized health service training program or by an affiliate of the organized health service training program who ~~earry~~ carries clinical responsibility for the cases being supervised. At least half of the internship supervision shall be provided by one or more doctoral-level psychologists.

e. to l. No change.

ITEM 10. Rescind rule 645—240.8(154B) and adopt the following **new** rule in lieu thereof:

645—240.8(154B) Exemption to licensure. Psychologists residing outside the state of Iowa and intending to practice in Iowa under the provisions of Iowa Code section 154B.3(5) shall complete and submit the application for the exemption to licensure according to the instructions contained in the application.

240.8(1) Application forms may be obtained from the board's website at idph.iowa.gov/Licensure or directly from the board office. All applications shall be sent to Board of Psychology, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075. The applicant may complete the application online at ibplicense.iowa.gov.

240.8(2) The applicant shall provide a summary of the intent to practice and a verification of the license in the applicant's jurisdiction of residence, sent directly from the jurisdiction to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

- a.* Licensee's name;
- b.* Date of initial licensure;
- c.* Current licensure status; and
- d.* Any disciplinary action taken against the license.

240.8(3) The application and supporting documentation shall be accompanied by the processing fee for the exemption to licensure pursuant to 645—Chapter 5. The fee is nonrefundable and shall be submitted payable to the Board of Psychology.

240.8(4) The exemption must be issued prior to practice in Iowa. The exemption shall be valid for 10 consecutive business days or not to exceed 15 business days in any 90-day period.

ITEM 11. Amend rule 645—240.9(154B) as follows:

645—240.9(154B) Psychologists' supervision of unlicensed persons in a practice setting. The supervising psychologist shall:

1. to 3. No change.

4. ~~Work in the same physical setting as the supervisee, unless other individual arrangements are approved by the board of psychology.~~ Work in the same physical setting as the supervisee, unless the supervisee is receiving formal training pursuant to the requirements for licensure as a psychologist. For supervisees working off-site while receiving formal licensure training, ensure the off-site location has a licensed mental health provider or primary care provider on-site whenever the supervisee is working for purposes of providing emergency consultation.

5. to 13. No change.

ITEM 12. Rescind rule 645—240.10(147) and adopt the following **new** rule in lieu thereof:

645—240.10(147) Licensure by endorsement. An applicant who possesses a doctoral degree in psychology and has been a licensed psychologist at the doctoral level under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may license by endorsement any applicant from the District of Columbia or another state, territory, province, or foreign country who:

240.10(1) Submits to the board a completed application.

240.10(2) Pays the licensure fee.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

240.10(3) Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

- a. Licensee's name;
- b. Date of initial licensure;
- c. Current licensure status; and
- d. Any disciplinary action taken against the license.

240.10(4) Provides verification of a current Certificate of Professional Qualification (CPQ) issued by the ASPPB, or verification of a doctoral degree in psychology and an independent license to practice psychology in another jurisdiction for at least five years with no disciplinary history. Except as stated in subrule 240.3(2), applicants providing certification or verification are deemed to have met the requirements stated in paragraphs 240.10(4) "a" and "b." The board may license by endorsement any other applicant who:

a. Provides the official EPPP score sent directly to the board from the ASPPB or verification of the EPPP score sent directly from the state of initial licensure. The recommended passing score established by the ASPPB shall be considered passing.

b. Shows evidence of licensure requirements that are substantially equivalent to those required in Iowa by one of the following means:

(1) Provides:

1. Official copies of academic transcripts that have been sent directly from the school; and
2. Satisfactory evidence of the applicant's qualifications in writing on the prescribed forms by the applicant's supervisors. If verification of professional experience is not available, the board may consider submission of documentation from the jurisdiction in which the applicant is currently licensed or equivalent documentation of supervision; or

(2) Has an official copy of one of the following certifications sent directly to the board from the certifying organization:

1. Current credentialing at the doctoral level as a health service provider in psychology by the National Register of Health Service Psychologists.
2. Board certification by the American Board of Professional Psychology that was originally granted on or after January 1, 1983.

ITEM 13. Amend paragraph **240.12(2)"b"** as follows:

b. A completed supervision plan on the prescribed board form, signed by the applicant's supervisors ~~who meet the definition of "supervisor" in rule 645—240.1(154B).~~ A change in a supervisor or in the supervision plan requires submission of a new supervision plan on the prescribed board form.

[Filed 9/18/20, effective 11/11/20]

[Published 10/7/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/7/20.

ARC 5199C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rule making related to disinterment permits

The Public Health Department hereby amends Chapter 95, "Vital Records: General Administration," and Chapter 97, "Death Registration and Disposition of Dead Human Bodies," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 144.3.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 144.3 and 2020 Iowa Acts, Senate File 2135.

Purpose and Summary

2020 Iowa Acts, Senate File 2135, updates Iowa Code section 144.34 regarding a disinterment permit to allow for disinterment of cremated remains without specifying a purpose for disinterment. Disinterment of a dead body or fetus is allowed if the purpose is for autopsy or reburial. The legislation outlines when a court order is required to issue a disinterment permit.

The amendments update language to reflect current registration practices using the electronic death registration system, update the fetal death registration rules to reflect current registration practices using a fetal death certificate, and will allow the Bureau of Health Statistics to support the public and provide clarity regarding when a disinterment permit is to be issued.

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 5087C**. No public comments were received. A citation to Iowa Code section 144.34 has been updated to include a reference to an amendment made to that section by 2020 Iowa Acts, Senate File 2135.

Adoption of Rule Making

This rule making was adopted by the State Board of Health on September 9, 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 Department for a waiver of the discretionary provisions, if any, pursuant to the Department's waiver provisions contained in 641—Chapter 178.

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 November 11, 2020.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** definitions of “Cremated remains” and “Cremation” in rule **641—95.1(144)**:

“*Cremated remains*” means all the remains of the cremated human body recovered after the completion of the cremation process, including pulverization which leaves only bone fragments reduced

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to unidentifiable dimensions, and may include the residue of any foreign matter including casket material, bridgework, or eyeglasses that were cremated with the human remains.

“Cremation” means the technical process, using heat and flame, that reduces human remains to bone fragments, with the reduction taking place through heat and evaporation. Cremation shall include the processing, and may include the pulverization, of the bone fragments.

ITEM 2. Amend rules 641—97.3(144) to 641—97.5(144) as follows:

641—97.3(144) Standard registration of death—up to one year. Iowa death records submitted for registration within one year from the date of death shall be prepared on the standard Certificate of Death form.

97.3(1) The county in which the death occurs or in which the dead human body is found is the county of death.

97.3(2) If the death occurs in a moving conveyance, the county in which the dead human body is first removed from the conveyance is the county of death.

97.3(3) ~~A blank Certificate of Death form shall be used only by the state registrar or authorized agents.~~ Each person with a duty related to death certificates shall participate in the electronic death record system. A person with a duty related to a death certificate includes but is not limited to a physician as defined in Iowa Code section 135.1, a physician assistant, an advanced registered nurse practitioner, a funeral director and a county recorder.

~~**97.3(4)** If a funeral director uses a computer software program to generate death records, the certificate of death form shall be provided to the state registrar prior to the funeral director’s use of the form. The state registrar shall review the form and provide written approval to the funeral director or shall deny approval of the form if the form does not conform to the standard certificate of death as prescribed. Denial shall be provided in writing.~~

641—97.4(144) Standard registration of fetal death—up to one year. Iowa fetal death records submitted for registration within one year from the date of fetal death shall be prepared on the standard Certificate of Fetal Death form. A fetal death certificate shall not be filed after one year from the date of the event. A fetal death record shall not be entered into the electronic death record system.

97.4(1) When a fetal death occurs in an institution, the person in charge of the institution or the person’s designee, the physician in attendance at or after delivery, or a medical examiner may assist in preparation of the Certificate of Fetal Death form as directed by the state registrar.

97.4(2) In cases in which a fetus has reached the gestation period of 20 completed weeks or more or a weight of 350 grams or more, a Certificate of Fetal Death form shall be:

- a. Registered and maintained solely at the state registrar’s office; and
- b. Filed within three days after delivery and prior to final disposition of the fetus.

97.4(3) The county in which the dead human fetus is found is the county of death. The certificate shall be filed within three days after the fetus is found.

97.4(4) If the fetal death occurs in a moving conveyance, the county in which the fetus is first removed from the conveyance is the county of death.

97.4(5) A blank Certificate of Fetal Death form shall be used only by the state registrar or authorized agents.

~~**97.4(6)** If a funeral director uses a computer software program to generate fetal death records, the certificate of fetal death form shall be provided to the state registrar prior to the funeral director’s use of the form. The state registrar shall review the form and provide written approval to the funeral director or shall deny approval of the form if the form does not conform to the standard certificate of death as prescribed. Denial shall be provided in writing.~~

641—97.5(144) Preparation of the certificate of death or fetal death.

97.5(1) The funeral director or person other than the funeral director who first assumes custody of a dead human body or fetus for the purposes of disposition shall:

- a. Obtain the personal data from the next of kin or the best-qualified person or source available;

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- b. Obtain the medical certification of cause of death from the medical certifier; and
- c. Within three days after the death and prior to final disposition of the dead human body, file the completed certificate of death using the electronic statewide vital records system or, within three days after delivery and prior to disposition of the fetus, file the completed certificate of fetal death with the state registrar.

97.5(2) The funeral director or person other than the funeral director who first assumes custody of the dead human body for the purposes of disposition shall prepare the certificate of death using the electronic statewide vital records system.

97.5(3) The funeral director or person other than the funeral director who first assumes custody of the dead fetus for the purposes of disposition shall prepare the certificate of fetal death on the official form and paper issued by the state registrar ~~by one of the following means:~~

- ~~a. Use of a typewriter with dark blue or black ribbon to complete the standard certificate form;~~
- ~~b. Use of a funeral director's computer program to complete the form that has been preapproved by the state registrar pursuant to subrules 97.3(4) and 97.4(6);~~
- ~~c. Use of an electronic form prescribed by the state registrar; or~~
- ~~d. As directed by the state registrar.~~

97.5(4) Unless otherwise directed by the state registrar, a certificate of fetal death shall be accepted for filing and registration only when:

- a. All names are ~~typed~~ documented in the spaces provided;
- b. All items are completed as required;
- c. No alterations or erasures are apparent;
- d. All signatures are original and genuine and are in dark blue or black ink;
- e. The certificate presented for registration is on the approved form and official paper prescribed by the state registrar;
- f. Data are consistent with the facts of death; and
- g. The form is prepared in conformity with these rules or instructions issued by the state registrar.

ITEM 3. Amend rule 641—97.14(144) as follows:

641—97.14(144) Disinterment permits.

97.14(1) A disinterment permit may be issued as follows:

- a. Disinterment of a dead human body or fetus, without a court order, shall be allowed for the purpose of autopsy or reburial only, and then only if ~~the disinterment is accomplished~~ supervised by a funeral director.
- b. Disinterment of cremated remains, without a court order, shall be allowed, but only if supervised by a funeral director.
- c. The state registrar, without a court order, shall not issue a permit without the consent of the person authorized to control the decedent's remains under Iowa Code section 144C.5.
- d. Disinterment of a dead body or fetus for the purpose of reburial may be allowed by court order only upon a showing of substantial benefit to the public, and then only if supervised by a funeral director.
- e. Disinterment of a dead body or fetus for the purpose of autopsy by court order shall be allowed only when reasonable cause is shown that someone is criminally or civilly responsible for such death, after hearing, upon reasonable notice prescribed by the court to the person authorized to control the decedent's remains under Iowa Code section 144C.5, and then only if supervised by a funeral director.
- f. Disinterment of a dead body or fetus for the purpose of cremation may be allowed by court order if supervised by a funeral director. Subsequent to the disinterment, cremation of the body shall only be allowed upon a determination by the state or county medical examiner that the death was due to natural causes.

97.14(2) A permit for disinterment shall be issued by the state registrar according to rules adopted pursuant to Iowa Code chapter 17A or when ordered by the district court of the county in which such body is buried. A person authorized to control final disposition of a decedent's remains under Iowa Code section 144C.5 is an interested person and shall be entitled to notice prior to the obtaining of a court order.

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~~97.14(2)~~ **97.14(3)** Disinterment permits shall be required for any relocation aboveground or belowground of remains from the original site of interment. Disinterment permits shall be valid for 30 days after the date the permit is signed by the state registrar. Disinterment permits are issued on a form as prescribed by the state registrar with copies to be distributed as follows:

- a. One copy filed with the sexton or person in charge of the cemetery in which disinterment is to be made;
- b. One copy to be used during transportation of the remains;
- c. One copy filed with the sexton or person in charge of the cemetery of reburial; and
- d. One copy to be returned to the state registrar by the funeral director within ten days after the date of disinterment.

~~97.14(3)~~ **97.14(4)** When removed from the vault for final burial, a dead human body or fetus, properly embalmed and placed in a receiving vault, shall not be considered a disinterment.

~~97.14(4)~~ **97.14(5)** The following persons who are competent adults may acquire a disinterment permit without a court order pursuant to Iowa Code ~~sections~~ section 144.34 as amended by 2020 Iowa Acts, Senate File 2135, and section 144C.5 in the following descending order:

- a. A designee, or alternate designee, acting pursuant to the decedent's declaration.
- b. The surviving spouse of the decedent, if not legally separated from the decedent, whose whereabouts are reasonably ascertainable.
- c. A surviving child of the decedent or, if there is more than one surviving child, a majority of the surviving children whose whereabouts are reasonably ascertainable.
- d. The surviving parent or parents of the decedent whose whereabouts are reasonably ascertainable.
- e. A surviving grandchild of the decedent or, if there is more than one surviving grandchild, a majority of the surviving grandchildren whose whereabouts are reasonably ascertainable.
- f. A surviving sibling of the decedent or, if there is more than one surviving sibling, a majority of the surviving siblings whose whereabouts are reasonably ascertainable.
- g. A surviving grandparent of the decedent or, if there is more than one surviving grandparent, a majority of the surviving grandparents whose whereabouts are reasonably ascertainable.
- h. A person in the next degree of kinship to the decedent in the order named by law to inherit the estate of the decedent under the rules of inheritance for intestate succession or, if there is more than one such surviving person, a majority of such surviving persons whose whereabouts are reasonably ascertainable.
- i. A person who represents that the person knows the identity of the decedent and who signs an affidavit warranting the identity of the decedent and assuming the right to control final disposition of the decedent's remains and the responsibility to pay any expense attendant to such final disposition. A person who warrants the identity of the decedent pursuant to this paragraph is liable for all damages that result, directly or indirectly, from that warrant.
- j. The county medical examiner, if responsible for the decedent's remains.

~~97.14(5)~~ **97.14(6)** A funeral director may await a court order before proceeding with disinterment of a decedent's remains if the funeral director is aware of a dispute among:

- a. Persons who are members of the same class of persons described in subrule ~~97.14(4)~~ 97.14(5);
- or
- b. Persons who are authorized under subrule ~~97.14(4)~~ 97.14(5) and the executor named in the decedent's will or personal representative appointed by the court.

97.14(7) Due consideration under this rule shall be given to the public health, the preferences of a person authorized to control final disposition of a decedent's remains under Iowa Code section 144C.5, and any court order.

[Filed 9/10/20, effective 11/11/20]

[Published 10/7/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/7/20.

ARC 5200C**PUBLIC HEALTH DEPARTMENT[641]****Adopted and Filed****Rule making related to medical cannabidiol**

The Public Health Department hereby amends Chapter 154, “Medical Cannabidiol Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code chapter 124E and 2020 Iowa Acts, House File 2589.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 124E and 2020 Iowa Acts, House File 2589.

Purpose and Summary

These amendments update the rules pursuant to the requirements of 2020 Iowa Acts, House File 2589. These amendments:

- Remove the 3 percent tetrahydrocannabinol (THC) cap on products, replace it with a 4.5g THC/90-day purchase limit, and establish exceptions to the 4.5g THC/90-day purchase limit if a patient is terminally ill or if the patient’s health care practitioner certifies the patient for additional THC.
- Require dispensaries to employ either a pharmacist or a pharmacy technician.
- Change “untreatable pain” to “chronic pain” and add “post-traumatic stress disorder” and “severe, intractable autism with self-injurious or aggressive behaviors” to the list of debilitating medical conditions.
- Add physician assistants, advanced registered nurse practitioners, advanced practice registered nurses, and podiatrists to the list of health care practitioners who can certify patients for participation in the program.
- Add a new definition for “total tetrahydrocannabinol.”
- Make the Department, instead of the Department of Transportation, responsible for issuance of registration cards.
- Remove the felony disqualifiers for patients and primary caregivers.
- Remove the limit on the number of Medical Cannabidiol Board meetings allowed each year and require the Board to meet at least twice per year.
- Remove the requirement for manufacturers to contract specifically with the State Hygienic Laboratory and instead require that they contract with “a laboratory.”
- Provide access to the patient registry for health care practitioners for the purpose of determining whether patients have received a certification from another health care provider.

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 5082C**. One comment was received from a member of the Administrative Rules Review Committee (ARRC), and two comments were received from MedPharm Iowa, a licensed manufacturer.

Summary of comments: The ARRC member asked that 2020 Iowa Acts, House File 2589, section 29, which specifically excludes FDA-approved products from regulation under the medical cannabidiol program, be implemented in these rules. MedPharm Iowa expressed concerns that a health care provider certifying a waiver for the 4.5g THC/90-day purchase limit would be at risk of violating the

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Controlled Substances Act and therefore putting the provider's Drug Enforcement Administration (DEA) registration at risk. MedPharm encouraged the Department to adopt a rule giving the Department final authority in approving waivers to the 4.5g THC/90-day purchase limit stated in House File 2589. MedPharm Iowa also requested clarity concerning the Department's approval process for independent laboratories.

Summary of changes: A revision was made to the definition of "medical cannabidiol" to specifically implement section 29 of House File 2589 and to indicate that FDA-approved products are excluded from regulation under the medical cannabidiol program. Subrule 154.69(5) was added to clarify the process the Department will use to review applications from independent laboratories interested in conducting testing of medical cannabidiol products in Iowa. Subrule 154.69(6) was added to clarify the processes for continued oversight and review of any approved independent laboratories. These new subrules are in Item 17. In addition, the chapter implementation sentence was amended in Item 18 to reflect amendments to Iowa Code chapter 124E by 2020 Iowa Acts, House File 2589.

Adoption of Rule Making

This rule making was adopted by the State Board of Health on September 9, 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 Department for a waiver of the discretionary provisions, if any, pursuant to the Department's waiver provisions contained in 641—Chapter 178.

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 November 11, 2020.

The following rule-making actions are adopted:

ITEM 1. Amend rule **641—154.1(124E)**, definitions of "Date of issuance," "Debilitating medical condition," "Health care practitioner," "Laboratory" and "Medical cannabidiol," as follows:

"Date of issuance" means the date of issuance of the medical cannabidiol registration card by the department of transportation.

"Debilitating medical condition" means any of the following:

1. Cancer, if the underlying condition or treatment produces one or more of the following:
 - Severe or chronic pain.
 - Nausea or severe vomiting.
 - Cachexia or severe wasting.
2. Multiple sclerosis with severe and persistent muscle spasms.
3. Seizures, including those characteristic of epilepsy.

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4. AIDS or HIV as defined in Iowa Code section 141A.1.
5. Crohn's disease.
6. Amyotrophic lateral sclerosis.
7. Any terminal illness, with a probable life expectancy of under one year, if the illness or its treatment produces one or more of the following:
 - Severe or chronic pain.
 - Nausea or severe vomiting.
 - Cachexia or severe wasting.
8. Parkinson's disease.
9. Untreatable Chronic pain.
10. Severe, intractable autism with self-injurious or aggressive behaviors.
11. Post-traumatic stress disorder.
- ~~10.~~ 12. Any medical condition that is recommended by the medical cannabidiol board and adopted by the board of medicine by rule pursuant to Iowa Code section 124E.5 and that is listed in 653—subrule 13.15(1).

"Health care practitioner" means an individual licensed under Iowa Code chapter 148 to practice medicine and surgery or osteopathic medicine and surgery, a physician assistant licensed under Iowa Code chapter 148C, an advanced registered nurse practitioner licensed under Iowa Code chapter 152, or an advanced practice registered nurse under Iowa Code chapter 152E, who is a patient's primary care provider or a podiatrist licensed pursuant to Iowa Code chapter 149. ~~"Health care practitioner" shall not include a physician assistant licensed under Iowa Code chapter 148C or an advanced registered nurse practitioner licensed pursuant to Iowa Code chapter 152 or 152E.~~

"Laboratory" means the state hygienic laboratory at the University of Iowa or any other independent medical cannabidiol testing facility accredited to Standard ISO/IEC 17025 by an ISO-approved International Organization for Standardization-approved accrediting body, with a controlled substance registration certificate from the Drug Enforcement Administration of the U.S. Department of Justice and a certificate of registration from the Iowa board of pharmacy, and approved by the department to examine, analyze, or test samples of medical cannabidiol or any substance used in the manufacture of medical cannabidiol. For the purposes of these rules, an independent laboratory is a laboratory operated by an entity that has no equity ownership in a medical cannabidiol manufacturer.

"Medical cannabidiol" means any pharmaceutical grade cannabinoid found in the plant *Cannabis sativa* L. or *Cannabis indica* or any other preparation thereof ~~that has a tetrahydrocannabinol level of no more than 3 percent and~~ that is delivered in a form recommended by the medical cannabidiol board, approved by the board of medicine, and designated in this chapter. This definition shall not apply to any cannabis-derived investigational product or cannabis-derived product approved as a prescription drug medication by the United States food and drug administration.

ITEM 2. Adopt the following **new** definition of "Total tetrahydrocannabinol" in rule **641—154.1(124E)**:

"Total tetrahydrocannabinol" means 87.7 percent of the amount of tetrahydrocannabinolic acid plus the amount of tetrahydrocannabinol.

ITEM 3. Rescind the definitions of "Department of transportation" and "Untreatable pain" in rule **641—154.1(124E)**.

ITEM 4. Amend paragraph **154.2(1)"a"** as follows:

a. Determine, in the health care practitioner's medical judgment, whether the patient whom the health care practitioner has examined and treated suffers from a debilitating medical condition that qualifies for the use of medical cannabidiol as defined by this chapter, and if so determined, provide the patient with a written certification of that diagnosis by completing the health care practitioner section of the application form provided for this purpose on the department's website (www.idph.iowa.gov).

(1) If the health care practitioner provides written certification that a patient's qualifying debilitating medical condition is a terminal illness with a life expectancy of less than one year, the

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health care practitioner shall determine an appropriate total tetrahydrocannabinol cap. The health care practitioner shall indicate the total tetrahydrocannabinol cap on the written certification.

(2) If the health care practitioner determines that 4.5 grams of total tetrahydrocannabinol in a 90-day period is insufficient to treat a patient's qualifying debilitating medical condition and the patient has participated in the medical cannabidiol program, the health care practitioner may recommend a higher total tetrahydrocannabinol cap. The health care practitioner shall indicate the higher total tetrahydrocannabinol cap on the written certification.

ITEM 5. Amend rules 641—154.3(124E) and 641—154.4(124E) as follows:

641—154.3(124E) Medical cannabidiol registration card—application and issuance to patient.

154.3(1) Subject to subrule 154.3(7), the department may approve the issuance of issue a medical cannabidiol registration card by the department of transportation to a patient who:

- a. Is at least 18 years of age.
- b. Is a permanent resident of Iowa.
- c. Submits a written certification to the department, provided to the patient pursuant to rule 641—154.2(124E) and signed by the patient's health care practitioner certifying that the patient is suffering from a debilitating medical condition.
- d. Submits an application to the department, on a form created by the department ~~in consultation with the department of transportation~~ and available at the department's website (www.idph.iowa.gov), that contains all of the following:

(1) The patient's full legal name, Iowa residence address, mailing address (if different from the patient's residence address), telephone number, date of birth, and sex designation. The patient shall not provide as a mailing address an address for which a forwarding order is in place.

(2) A copy of the patient's valid photo identification. Acceptable photo identification includes:

1. A valid Iowa driver's license,
2. A valid Iowa nonoperator's identification card, or
3. An alternative form of valid photo identification. A patient who possesses or is eligible for an Iowa driver's license or an Iowa nonoperator's identification card shall present such document as valid photo identification. A patient who is ineligible to obtain an Iowa driver's license or an Iowa nonoperator's identification card may apply for an exemption and request submission of an alternative form of valid photo identification. A patient who applies for an exemption is subject to verification of the patient's identity through a process established by the department ~~and the department of transportation~~ to ensure the genuineness, regularity, and legality of the alternative form of valid photo identification.

(3) Full name, address, and telephone number of the patient's health care practitioner.

(4) Full legal name, residence address, date of birth, and telephone number of each primary caregiver of the patient, if any.

(5) An attestation as to the truthfulness and accuracy of the information provided by the patient on the application.

~~e. Has not been convicted of a disqualifying felony offense.~~

~~f. e.~~ Submits the required fee, as described in subrule 154.12(1).

154.3(2) Upon the completion, verification, and approval of the patient's application and the receipt of the required fee, the department shall ~~notify the department of transportation that the patient may be issued~~ issue a medical cannabidiol registration card to the patient.

154.3(3) A medical cannabidiol registration card issued to a patient by the department of ~~transportation~~ shall contain all of the following:

a. to c. No change.

~~d. The patient's signature. The signature shall be without qualification and shall contain only the patient's usual signature without any other titles, characters, or symbols. The patient's signature certifies, under penalty of perjury and pursuant to the laws of the state of Iowa, that the statements made and information provided in the patient's application for a medical cannabidiol registration card are true and correct. The patient's signature shall be captured electronically.~~

~~e. A color photograph of the patient.~~

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~~f. d.~~ A statement that the medical cannabidiol registration card is not valid for identification purposes.

154.3(4) Every patient 18 years of age or older must obtain a valid medical cannabidiol registration card to use medical cannabidiol in Iowa. ~~The department may waive this requirement for a patient who is unable to obtain a card because of health, mobility, or other issues, but only when the patient:~~

- ~~a. Has submitted an application for a medical cannabidiol registration card;~~
- ~~b. Has had the application approved by the department;~~
- ~~c. Has been assigned a patient registration number;~~
- ~~d. Has designated a primary caregiver whose application has been approved and whose medical cannabidiol registration card has been issued; and~~
- ~~e. Complies with all provisions of Iowa Code chapter 124E.~~

154.3(5) and 154.3(6) No change.

154.3(7) The department shall not ~~approve the issuance of~~ issue a medical cannabidiol registration card for a patient who is enrolled in a federally approved clinical trial for the treatment of a debilitating medical condition with medical cannabidiol.

641—154.4(124E) Medical cannabidiol registration card—application and issuance to primary caregiver.

154.4(1) For a patient in a primary caregiver's care, the department may ~~approve the issuance of~~ issue a medical cannabidiol registration card ~~by the department of transportation~~ to a primary caregiver who:

- a. Is at least 18 years of age.
- b. Submits a written certification to the department, provided to the patient pursuant to rule 641—154.2(124E) and signed by the patient's health care practitioner certifying that the patient is suffering from a debilitating medical condition.
- c. Submits an application as a primary caregiver for each patient for whom the person is the primary caregiver. The primary caregiver application must be on a form created by the department ~~in consultation with the department of transportation~~ and available at the department's website (www.idph.iowa.gov) that contains all of the following:

- (1) and (2) No change.
- (3) A copy of the primary caregiver's valid photo identification. Acceptable photo identification includes:
 - 1. A valid Iowa driver's license,
 - 2. A valid Iowa nonoperator's identification card,
 - 3. If the primary caregiver is not a resident of the state of Iowa, a valid state-issued driver's license or nonoperator's identification card issued by a state other than Iowa, or
 - 4. An alternative form of valid photo identification. A primary caregiver who possesses or is eligible for a driver's license or a nonoperator's identification card shall present such document as valid photo identification. A primary caregiver who is ineligible to obtain a driver's license or a nonoperator's identification card may apply for an exemption and request submission of an alternative form of valid photo identification. A primary caregiver who applies for an exemption is subject to verification of the primary caregiver's identity through a process established by the department ~~and the department of transportation~~ to ensure the genuineness, regularity, and legality of the alternative form of valid photo identification.
- (4) Full name, address, and telephone number of the patient's health care practitioner.
- (5) An attestation as to the truthfulness and accuracy of the information provided by the primary caregiver on the application.

~~d. Has not been convicted of a disqualifying felony offense.~~

~~e. d.~~ Submits the required fee, as described in subrule 154.12(2).

154.4(2) Upon the completion, verification, and approval of the primary caregiver's application, the department shall ~~notify the department of transportation that the primary caregiver may be issued~~ issue a medical cannabidiol registration card to the primary caregiver.

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154.4(3) A medical cannabidiol registration card issued to a primary caregiver by the department of transportation shall contain all of the following:

a. to d. No change.

~~*e.* The primary caregiver's signature. The signature shall be without qualification and shall contain only the primary caregiver's usual signature without any other titles, characters, or symbols. The primary caregiver's signature certifies, under penalty of perjury and pursuant to the laws of the state of Iowa, that the statements made and information provided in the primary caregiver's application for a medical cannabidiol registration card are true and correct. The primary caregiver's signature shall be captured electronically.~~

~~*f.* A color photograph of the primary caregiver.~~

~~*g. e.* A statement that the medical cannabidiol registration card is not valid for identification purposes.~~

~~*h. f.* A statement distinguishing the medical cannabidiol registration cardholder as a primary caregiver.~~

154.4(4) and 154.4(5) No change.

ITEM 6. Rescind and reserve rule **641—154.5(124E)**.

ITEM 7. Amend rule 641—154.6(124E) as follows:

641—154.6(124E) Denial and cancellation. The department may deny an application for a medical cannabidiol registration card, or may cancel or direct the department of transportation to cancel a medical cannabidiol registration card, for any of the following reasons:

1. Information contained in the application is illegible, incomplete, falsified, misleading, deceptive, or untrue.

2. The department or the department of transportation is unable to verify the identity of the applicant from the photo identification or other documentation presented pursuant to paragraph 154.3(1) "d"(2)"3" or 154.4(1) "c"(3)"4."

3. The applicant violates or fails to satisfy any of the provisions of Iowa Code chapter 124E or these rules.

4. A patient, the patient's legal guardian, or other person with durable power of attorney requests in writing that the department cancel the patient's medical cannabidiol registration card. The department shall notify a primary caregiver in writing when the registration card of the primary caregiver's patient has been canceled.

5. A primary caregiver requests in writing that the department cancel the primary caregiver's medical cannabidiol registration card. The department shall notify a patient in writing when the registration card of the patient's primary caregiver has been canceled.

6. The department becomes aware of the death of a patient or primary caregiver.

ITEM 8. Amend rule 641—154.8(124E) as follows:

641—154.8(124E) Duplicate card.

154.8(1) Lost, stolen, or destroyed card. To replace a medical cannabidiol registration card that is lost, stolen, or destroyed, a cardholder shall present to the department of transportation the cardholder's valid state-issued driver's license, nonoperator's identification card, or alternative form of valid photo identification provided pursuant to paragraph 154.3(1) "d"(2)"3" or 154.4(1) "c"(3)"4."

154.8(2) Change in card information and voluntary replacement.

a. To replace a medical cannabidiol registration card that is damaged, the cardholder shall surrender to the department of transportation the card to be replaced and present the cardholder's valid state-issued driver's license, nonoperator's identification card, or alternative form of valid photo identification provided pursuant to paragraph 154.3(1) "d"(2)"3" or 154.4(1) "c"(3)"4."

b. A patient or primary caregiver to whom a medical cannabidiol registration card is issued shall notify the department of a change in current residence address, name, or sex designation listed on the card, within ten calendar days of the change. To replace a medical cannabidiol registration card to change

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the current residence address, name, or sex designation listed on the card, the cardholder shall surrender to the department ~~of transportation~~ the card to be replaced and present a valid state-issued driver's license, nonoperator's identification card, or alternative form of valid photo identification provided pursuant to paragraph 154.3(1) "d"(2)"3" or 154.4(1) "c"(3)"4" that has been updated according to the procedures established by the state or agency of issuance to reflect the requested residence address, name, or sex designation.

c. To replace a medical cannabidiol registration card held by a primary caregiver to change, add, or remove a patient's medical cannabidiol registration number or the name of a patient's parent or legal guardian listed on the primary caregiver's card, the primary caregiver shall submit a new application to the department pursuant to rule 641—154.4(124E). A medical cannabidiol registration card issued pursuant to this paragraph shall not be considered a duplicate card.

154.8(3) Expiration date. A duplicate medical cannabidiol registration card shall have the same expiration date as the medical cannabidiol registration card being replaced, changed, or amended.

ITEM 9. Amend rule 641—154.10(124E) as follows:

641—154.10(124E) Confidentiality. The department shall maintain a confidential file of the names of each patient to or for whom the department ~~approves the issuance of~~ issues a medical cannabidiol registration card and the name of each primary caregiver to whom the department issues a medical cannabidiol registration card under Iowa Code section 124E.4.

154.10(1) Personally identifiable information of patients and primary caregivers shall be maintained as confidential and is not accessible to the public. The department ~~and the department of transportation~~ shall release aggregate and statistical information regarding the medical cannabidiol act registration card program in a manner which prevents the identification of any patient or primary caregiver.

154.10(2) Personally identifiable information of patients and primary caregivers may be disclosed under the following limited circumstances:

a. To authorized employees or agents of the department ~~and the department of transportation~~ as necessary to perform the duties of the department ~~and the department of transportation~~ pursuant to Iowa Code chapter 124E and these rules.

b. To authorized employees of state or local law enforcement agencies located in Iowa, solely for the purpose of verifying that a person is lawfully in possession of a medical cannabidiol registration card issued pursuant to Iowa Code chapter 124E and these rules.

c. To a patient, primary caregiver, or health care practitioner, upon written authorization of the patient or primary caregiver.

d. To a health care practitioner for the purpose of determining whether a patient seeking a written certification pursuant to Iowa Code section 124E.3 and these rules has already received a written certification from another health care practitioner.

e. To authorized employees of a medical cannabidiol dispensary, but only for the purposes of verifying that a person is lawfully in possession of a medical cannabidiol registration card issued pursuant to Iowa Code chapter 124E and these rules and that a person has not purchased total tetrahydrocannabinol in excess of the amount authorized by Iowa Code chapter 124E and these rules.

ITEM 10. Rescind and reserve rule **641—154.11(124E)**.

ITEM 11. Amend rule 641—154.14(124E) as follows:

641—154.14(124E) Form and quantity Allowable forms of medical cannabidiol. ~~The form and quantity of medical cannabidiol authorized in this rule may be modified pursuant to recommendations by the medical cannabidiol board, subsequent approval of the recommendations by the board of medicine and adoption of the recommendations by the department by rule.~~

154.14(1) Quantity. Modification of allowable forms. ~~A 90-day supply is the maximum amount of each product that shall be dispensed by a dispensary at one time. The allowable forms of medical cannabidiol authorized in this rule may be modified pursuant to recommendations by the medical~~

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cannabidiol board, subsequent approval of the recommendations by the board of medicine and adoption of the recommendations by the department by rule.

154.14(2) ~~Form.~~ Allowable forms.

a. to c. No change.

ITEM 12. Amend subrule 154.40(4) as follows:

154.40(4) Establishment and maintenance of a secure sales and inventory tracking system. The department shall establish and maintain a secure, electronic system that is available 24 hours a day, seven days a week to track:

- a. Inventory of medical cannabidiol and waste material;
- b. Sales of medical cannabidiol from dispensaries to patients and primary caregivers.
- c. Total tetrahydrocannabinol purchased in the last 90 days by a patient and the patient's primary caregiver.

ITEM 13. Amend rule 641—154.41(124E) as follows:

641—154.41(124E) Dispensary operations.

154.41(1) Operating documents. The operating documents of a dispensary shall include all of the following:

a. Procedures for the oversight of the dispensary, including descriptions of operational and management practices regarding:

(1) The forms and quantities of medical cannabidiol products that will be stored and dispensed at the dispensary;

(2) The estimated forms and quantities of medical cannabidiol waste to be generated or collected;

(3) The disposal methods for all waste materials;

(4) Employee training methods for the dispensary employees;

(5) Strategies for identifying and reconciling discrepancies in inventory of medical cannabidiol;

(6) Procedures to ensure the dispensary does not dispense more than a patient's certified cap of total tetrahydrocannabinol to a patient and the patient's primary caregiver(s) in a 90-day period;

~~(7)~~ (7) Medical cannabidiol labeling procedures;

~~(8)~~ (8) Procedures for recall or market withdrawal of medical cannabidiol;

~~(9)~~ (9) Plans for responding to a security breach at the dispensary facility;

~~(10)~~ (10) A business continuity plan; and

~~(11)~~ (11) Other information requested by the department.

b. Procedures to ensure accurate record keeping.

c. Procedures for the implementation of appropriate security measures to deter and prevent the theft of medical cannabidiol and unauthorized entrance into areas of the dispensary facility containing medical cannabidiol.

154.41(2) Prohibited activities.

a. A person or entity shall not own or operate a dispensary unless the person or entity is licensed by the department pursuant to Iowa Code chapter 124E and these rules.

b. A dispensary shall not:

(1) Dispense medical cannabidiol in any location except in those areas approved by the department;

(2) Sell, receive, transport, or distribute medical cannabidiol from any location except its dispensary;

(3) Sell, receive, or distribute medical cannabidiol from any entity other than a manufacturer licensed by the department;

(4) Sell or distribute medical cannabidiol to any person other than an approved patient or primary caregiver;

(5) Sell or distribute more than 4.5 grams of total tetrahydrocannabinol to a patient and the patient's primary caregiver(s) in a 90-day period, unless the patient's health care practitioner has certified a higher total tetrahydrocannabinol cap;

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~~(5)~~ (6) Transport or deliver medical cannabidiol to any location, unless approved by the department;

~~(6)~~ (7) Sell medical cannabidiol that is not packaged and labeled in accordance with rules 641—154.21(124E) and 641—154.46(124E);

~~(7)~~ (8) Repackage medical cannabidiol or remove the manufacturer's label;

~~(8)~~ (9) Sell medical cannabidiol in any form or quantity other than a form or quantity approved by the department and adopted by rule;

~~(9)~~ (10) Permit any person to consume medical cannabidiol on the property of the dispensary;

~~(10)~~ (11) Employ a person who is under 18 years of age or who has been convicted of a disqualifying felony offense.

154.41(3) and **154.41(4)** No change.

154.41(5) *Employment of a pharmacist or pharmacy technician.* A medical cannabidiol dispensary shall employ a pharmacist or pharmacy technician licensed or registered pursuant to Iowa Code chapter 155A for the purpose of making dosing recommendations.

ITEM 14. Amend rule 641—154.46(124E) as follows:

641—154.46(124E) Dispensing.

154.46(1) *Access to all forms of product.* A dispensary shall provide access to all medical cannabidiol forms produced by each licensed manufacturer.

154.46(2) *Dispensing to a patient.*

a. Prior to dispensing any medical cannabidiol to a patient, a dispensary shall do all of the following:

(1) Verify the patient's identity; using a valid photo ID. Acceptable photo identification includes:

1. A valid Iowa driver's license,
2. A valid Iowa nonoperator's identification card,
3. A U.S. passport,
4. A U.S. military ID or veteran ID,
5. A tribal ID card/document;

(2) Verify that the patient is registered and listed in the secure sales and inventory tracking system and has a valid medical registration card;

(3) Check the secure sales and inventory tracking system for the patient's total tetrahydrocannabinol 90-day purchase cap and the amount of total tetrahydrocannabinol that the patient and the patient's primary caregiver(s) have purchased on behalf of the patient in the past 90 days to ensure that the amount of total tetrahydrocannabinol sold by the dispensary to the patient does not exceed the patient's cap;

~~(3)~~ (4) Assign a tracking number to any medical cannabidiol that is to be dispensed to the patient;

(4) (5) Issue a label that contains the following information:

1. The medical cannabidiol tracking number; and
2. The patient registration number;

~~(5)~~ (6) Ensure the following information, which may be printed on a secondary label or package insert, is issued with dispensed medical cannabidiol:

1. to 3. No change.

b. No change.

154.46(3) *Dispensing to a primary caregiver.*

a. Prior to dispensing any medical cannabidiol to a primary caregiver, a dispensary shall do all of the following:

(1) Verify the primary caregiver's identity; using a valid photo ID. Acceptable photo identification includes:

1. A valid Iowa driver's license,
2. A valid Iowa nonoperator's identification card,
3. A U.S. passport,
4. A U.S. military ID or veteran ID,

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5. A tribal ID card/document;

(2) Verify that the patient and the primary caregiver are registered and listed in the secure sales and inventory tracking system and have valid medical registration cards;

(3) Check the secure sales and inventory tracking system for the associated patient's total tetrahydrocannabinol 90-day purchase cap and the amount of total tetrahydrocannabinol that the patient and patient's primary caregiver(s) have purchased on behalf of the patient in the past 90 days to ensure that the amount of total tetrahydrocannabinol sold by the dispensary to the primary caregiver does not exceed the patient's cap;

~~(3)~~ (4) Assign a medical cannabidiol tracking number to any medical cannabidiol that is to be dispensed to the primary caregiver;

(4) (5) Issue a label that contains the following information:

1. The medical cannabidiol tracking number; and
2. The patient registration number;

~~(5)~~ (6) Ensure the following information, which may be printed on a secondary label or package insert, is issued with dispensed medical cannabidiol:

1. to 3. No change.
- b. No change.

ITEM 15. Amend subrule 154.60(2) as follows:

154.60(2) Responsibilities of the board include but are not limited to:

a. to e. No change.

~~f. Considering recommendations to the general assembly for statutory revisions to the definition of medical cannabidiol to increase the tetrahydrocannabinol (THC) level to more than 3 percent.~~

~~g. f. Submitting an annual report to the general assembly detailing the activities of the board no later than January 1.~~

ITEM 16. Amend subrule 154.61(4) as follows:

154.61(4) *Board meetings.*

a. The board shall convene at least twice ~~but no more than four times a~~ per year.

b. to e. No change.

ITEM 17. Adopt the following new subrules 154.69(5) and 154.69(6):

154.69(5) *Review of laboratory applications.* The department shall establish a process to review applications from prospective medical cannabidiol testing laboratories. Prospective laboratories shall submit an application to the department on a form created by the department. The department shall determine whether the laboratory meets the criteria for an independent medical cannabidiol testing facility as set forth in the definition of "laboratory" in Iowa Code section 124E.2 in addition to determining whether the laboratory meets laboratory requirements pursuant to rules 641—154.70(124E) to 641—154.76(124E).

154.69(6) *Regulation of independent laboratories.* The department shall determine on an annual basis whether any approved independent laboratory continues to meet criteria as set forth in the definition of "laboratory" in Iowa Code section 124E.2 and laboratory requirements pursuant to rules 641—154.70(124E) to 641—154.76(124E). The department shall establish a process for the annual review of approved independent laboratories. An independent laboratory is subject to reasonable inspection by the department, a department-approved consultant, or other agency pursuant to Iowa Code chapter 124E and these rules and as authorized by laws and regulations.

ITEM 18. Amend **641—Chapter 154**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 124E as amended by 2020 Iowa Acts, House File 2589.

[Filed 9/10/20, effective 11/11/20]

[Published 10/7/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/7/20.

ARC 5201C**REVENUE DEPARTMENT[701]****Adopted and Filed****Rule making related to affiliated corporations acting as a unit**

The Revenue Department hereby amends Chapter 18, “Taxable and Exempt Sales Determined by Method of Transaction or Usage,” and Chapter 213, “Miscellaneous Taxable Sales,” 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 section 423.1.

Purpose and Summary

In November 2019, the Department received a petition for a declaratory order, pursuant to Iowa Code section 17A.9 and rule 701—7.24(17A). The petition requested that the Department analyze facts under rule 701—213.24(423) relating to affiliated corporations acting as a unit. Upon review of the rule at issue, the Department determined that a change to its rules regarding affiliated corporations acting as a unit is appropriate.

Before Iowa’s conformity to the Streamlined Sales and Use Tax Agreement (Streamlined) in 2005, rule 701—18.32(422,423) was intended to implement Iowa Code section 422.42(12). Prior to 2005, Iowa Code section 422.42(12) defined “person” to include “any individual firm, copartnership, joint adventure, association, corporation, municipal corporation, estate, trust, business trust, receiver, or any other group or combination acting as a unit and the plural as well as the singular number.”

In 2005, the Iowa Legislature adopted the Streamlined definition of “person” under current Iowa Code section 423.1(36), which no longer includes the “acting as a unit” language. Subsequently, the Department adopted new rules to reflect the changes brought about by the State’s participation in Streamlined. Included in those new rules is rule 701—213.24(423), which is very similar to 701—18.32(422,423). The Department should not have adopted the “acting as a unit” provisions in rule 701—213.24(423) because they no longer have meaning without the “acting as a unit” language in the “person” definition under Iowa Code section 423.1(36). The Department did not rescind or otherwise amend the pre-Streamlined rules at that time.

After reviewing the petition for a declaratory order, the Department has concluded that rescinding rule 701—18.32(422,423) and amending rule 701—213.24(423) are appropriate to improve accuracy and clarity of the Department’s rules.

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 5077C**.

The Department received one written comment in response to **ARC 5077C**, signed by three groups. The written comment asserted the Legislature did not intend to require affiliates to charge each other sales tax and that the change to the Iowa Code definition of “person” was an “administrative convenience.” The Department met with one of the concerned groups, who suggested the Department either simply strike the Iowa Code references in the rule and maintain the rest of the rule language or rescind rule 701—213.24(423) in its entirety.

The Department considered but declined these suggested changes. Maintaining the language, as suggested, would not resolve the problem of having rule language that is not accurate or enforceable.

REVENUE DEPARTMENT[701](cont'd)

Rescinding the rule was a possible option, but doing so would create potential ambiguity regarding sales between affiliates, especially since other states mentioned in the written comment have statutory exemptions for such sales. Thus, the Department concluded keeping this rule in place as amended may benefit taxpayers by pointing out there is no such exemption in the Iowa Code.

No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on September 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 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 November 11, 2020.

The following rule-making actions are adopted:

- ITEM 1. Rescind and reserve rule **701—18.32(422,423)**.
- ITEM 2. Amend rule 701—213.24(423) as follows:

701—213.24(423) Sale, transfer or exchange of tangible personal property or taxable enumerated services between affiliated corporations.

~~**213.24(1) In general.** The sales price of the sale, transfer or exchange of tangible personal property or taxable services among affiliated corporations, including but not limited to a parent corporation to a subsidiary corporation, for a consideration is subject to tax. A bookkeeping entry for an "account payable" qualifies as consideration as well as the actual exchange of money or its equivalent. The sales price of transactions between affiliated corporations may not be subject to tax where it can be shown that the affiliated corporations are operating as a unit within the meaning of Iowa Code sections 423.1(32) and 423.1(46).~~

~~**213.24(2) Affiliated corporations acting as a unit.** If an affiliated corporation acts as an agent for another affiliated corporation in a transaction listed in 213.24(1), the corporations may be considered as acting as a unit. There may not be taxable transactions between the affiliates, but this does not create an exemption for the purchase of tangible personal property or taxable services.~~

~~EXAMPLE. Corporation A and Corporation B are affiliated corporations. Corporation A is in the business of negotiation, arbitration, and mediation. Corporation B runs a fleet of taxis. Corporation A acts as Corporation B's agent in negotiating a contract between B and an outside third party C for C to~~

REVENUE DEPARTMENT[701](cont'd)

~~do all of B's vehicle repair at a very favorable price. In spite of a bookkeeping entry listing a sale of the contract for repair from A to B, in securing the contract, the corporations have "acted as a unit," and the "sale" from A to B is not subject to Iowa tax. However, any payments from A to C or from B to C in return for C's performance of taxable vehicle repair would be subject to tax, and C must collect Iowa sales tax on the sales price of those services.~~

~~This rule should not be equated with the unitary business concept used in corporation income tax law.~~

~~This rule is intended to implement Iowa Code sections 423.1(32) and 423.1(46) section 423.1(50).~~

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[Published 10/7/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/7/20.

ARC 5202C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rule making related to a statewide standard for permitting certain implements of husbandry

The Department of Transportation hereby amends Chapter 181, "Statewide Standard for Permitting Certain Implements of Husbandry," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 307.12 and 321.463(4).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 321.463(4) as amended by 2019 Iowa Acts, Senate File 555, section 1.

Purpose and Summary

This rule making implements the change made to Iowa Code section 321.463(4) within 2019 Iowa Acts, Senate File 555, section 1. The amendment allows a local authority to issue a special permit letting a self-propelled implement of husbandry used exclusively for the application of organic or inorganic plant food materials, agricultural limestone or agricultural chemicals to operate over a bridge within the local authority's jurisdiction with a weight in excess of weight limitations established by the local authority but within the weight limitations imposed by Iowa Code chapter 321. Before issuing a special permit, the local authority must evaluate the affected bridge according to the American Association of State Highway and Transportation Officials Manual for Bridge Evaluation. The amendment also makes a correction to the name of the Bridges and Structures Bureau.

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 5081C**. 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 8, 2020.

TRANSPORTATION DEPARTMENT[761](cont'd)

Fiscal Impact

The Department is unable to determine the fiscal impact of allowing a local authority to issue a special permit granting operation over a bridge within its jurisdiction of a self-propelled implement of husbandry used exclusively for the application of organic or inorganic plant food materials, agricultural limestone or agricultural chemicals with excess weight. Special permits cost \$35 for single trip and \$200 for multitrip. Unladen self-propelled implements of husbandry typically do not exceed legal axle loads. Fully laden self-propelled implements of husbandry are estimated to have axle loads that will not permit them to cross many bridges. It is difficult to estimate how many operators will apply for a special permit to operate these self-propelled implements of husbandry partially laden.

Jobs Impact

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

Waivers

This rule does not provide for waivers because issuance of permits is at the discretion of local authorities.

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 November 11, 2020.

The following rule-making action is adopted:

Amend rule 761—181.1(321) as follows:

761—181.1(321) Statewide standard.

181.1(1) Special permits.

a. A local authority may issue a special permit, based on this rule, allowing the operation over a bridge within its jurisdiction of a fence-line feeder, grain cart, tank wagon or tracked implement of husbandry with a weight in excess of the weights allowed under Iowa Code chapter 321.

b. A local authority may issue a special permit, based on this rule, allowing the operation over a bridge within its jurisdiction of a self-propelled implement of husbandry used exclusively for the application of organic or inorganic plant food materials, agricultural limestone or agricultural chemicals with a weight in excess of weight limitations established by the local authority by ordinance or resolution but within the weight limitations imposed by Iowa Code chapter 321.

181.1(2) A local authority shall evaluate a bridge according to section 6 of the American Association of State Highway and Transportation Officials (AASHTO) Manual for Bridge Evaluation (MBE), Third Edition (2018). The operating level shall be used for the evaluation of the bridge with only one fence-line feeder, grain cart, tank wagon, self-propelled implement of husbandry as fully described in paragraph 181.1(1) "b," or tracked implement of husbandry on the bridge at a time. The live load to be used in the analysis for permit decisions should be the actual vehicle crossing the bridge, together with a dynamic load allowance in accordance with section 6A.4.4.3 or 6A.4.5.5 of the AASHTO MBE, Third Edition (2018).

181.1(3) No change.

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181.1(4) The AASHTO ~~publications~~ publication may be ordered from the website www.transportation.org. ~~They~~ The publication may be inspected at the department's ~~office of bridges and structures bureau~~.

This rule is intended to implement Iowa Code sections 321.1, 321.463(4) and 321.471.

[Filed 9/8/20, effective 11/11/20]

[Published 10/7/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/7/20.

ARC 5203C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rule making related to specially constructed or reconstructed autocycles

The Department of Transportation hereby amends Chapter 450, "Motor Vehicle Equipment," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 17A.3 and 321.23.

Purpose and Summary

These amendments relate to motor vehicle equipment for specially constructed or reconstructed autocycles and align with existing legal authority and Department practice.

Iowa Code section 321.1(6A) defines an autocycle as a "three-wheeled motor vehicle originally designed with two front wheels and one rear wheel, a steering wheel rather than handlebars, no more than two permanent seats that do not require the operator or a passenger to straddle or sit astride the vehicle, and foot pedals that control the brakes, acceleration, and clutch, where applicable." The definition of autocycle also provides that an autocycle is not considered a motorcycle even if the autocycle bears the vehicle identification number (VIN) or has a manufacturer's certificate of origin that identifies it as a motorcycle. This distinction is important because while an autocycle is encompassed within the broader definition of a motor vehicle, it has unique characteristics that make it different from a traditional motor vehicle or a motorcycle.

Chapter 450 and Iowa Code section 321.23 outline the requirements to obtain a title to a specially constructed or reconstructed vehicle, which means a vehicle that was not originally constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles. Current Chapter 450 addresses the requirements to obtain a title for specially constructed or reconstructed passenger vehicles and motorcycles, and with these amendments, the rules will also now address the specific requirements for a specially constructed or reconstructed autocycle.

Accordingly, these amendments adopt new rule 761—450.5(321), which outlines the minimum requirements for constructing and equipping specially constructed or reconstructed autocycles and requires an application similar to what is required for specially constructed or reconstructed motor vehicles and motorcycles. The rule also specifies the type and nature of the required equipment a specially constructed or reconstructed autocycle must contain to be eligible for title and registration including seat belt, seat, lighting equipment, warning devices, brakes, horn, exhaust system, mirrors, tires and floor pan.

TRANSPORTATION DEPARTMENT[761](cont'd)

These amendments also clarify for all vehicles covered under Chapter 450 that addition or removal of parts that modify the external appearance of the vehicle so that it is no longer recognizable as the original make or model will cause the vehicle to be considered a specially constructed, reconstructed, street rod or replica vehicle, as applicable.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 29, 2020, as **ARC 5101C**. No public comments were received. One change from the Notice has been made to correct the spelling of the term “seat belt.”

Adoption of Rule Making

This rule making was adopted by the Department on September 8, 2020.

Fiscal Impact

This rule making is estimated to have a very minimal fiscal impact to the State of Iowa. As of September 28, 2020, the Department has not received any applications to register a specially constructed autocycle in Iowa. The registration fee for an autocycle is \$20 and is set by Iowa Code section 321.117.

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on November 11, 2020.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** rule 761—450.1(321):

761—450.1(321) Addresses, information and forms. Assistance under this chapter is available as follows:

450.1(1) Information and forms for vehicle registration and certificate of title may be obtained from the county treasurer or by mail from the Vehicle and Motor Carrier Services Bureau, Iowa Department of Transportation, P.O. Box 9278, Des Moines, Iowa 50306-9278; in person at Iowa Department of Transportation, 6310 SE Convenience Boulevard, Ankeny, Iowa; by telephone at (515)237-3264; or on the department’s website at www.iowadot.gov.

450.1(2) Information for inspections may be obtained from the Bureau of Investigation and Identity Protection, Iowa Department of Transportation, 6310 SE Convenience Boulevard, Ankeny, Iowa; by telephone at (515)237-3050; or on the department’s website at www.iowadot.gov.

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

TRANSPORTATION DEPARTMENT[761](cont'd)

ITEM 2. Amend rule 761—450.2(321), introductory paragraph, as follows:

761—450.2(321) Equipment requirements for specially constructed, reconstructed, street rod, and replica motor vehicles, other than autocycles, motorcycles and motorized bicycles. The following standards are minimum requirements for constructing and equipping specially constructed, reconstructed, street rod, and replica motor vehicles other than autocycles, motorcycles and motorized bicycles.

ITEM 3. Amend subrule 450.2(2) as follows:

450.2(2) Application. As outlined in rule 761—400.16(321), the applicant shall submit the required application forms and exhibits to the county treasurer. The vehicle and ownership documents shall be examined by the department. If the department determines that the motor vehicle complies with this rule, that the integral parts and components have been identified as to ownership, and that the application forms have been completed properly, the department shall assign an identification number to the vehicle and certify that the motor vehicle is eligible for titling and registration. If the frame or unibody specified on an application for a specially constructed, reconstructed, street rod, or replica motor vehicle is designated “not for highway use,” the application shall not be approved. The exchange of compatible body parts does not constitute a specially constructed, reconstructed, street rod, or replica motor vehicle. The removal, addition, or substitution of reconstructed motor vehicle parts that modifies the vehicle’s external appearance so that it does not reflect the original make or manufacturer model for that model does constitute a specially constructed, reconstructed, street rod, or replica motor vehicle.

ITEM 4. Amend subrule 450.4(1) as follows:

450.4(1) Application. As outlined in rule 761—400.16(321), the applicant shall submit the required application forms and exhibits to the county treasurer. The vehicle and ownership documents shall be examined by the department. If the department determines that the motor vehicle complies with this rule, that the integral parts and components have been identified as to ownership, and that the application forms have been completed properly, the department shall assign an identification number to the vehicle and certify that the motor vehicle is eligible for titling and registration. If the frame specified on an application for a specially constructed or reconstructed motorcycle or motorized bicycle is designated “not for highway use,” the application shall not be approved. The exchange of compatible body parts does not constitute a specially constructed or reconstructed motorcycle or motorized bicycle. The removal, addition, or substitution of a reconstructed motorcycle or motorized bicycle part that modifies the vehicle’s external appearance so that it does not reflect the original make or manufacturer model does constitute a specially constructed, reconstructed, street rod, or replica motorcycle or motorized bicycle. EXEMPTION: The conversion of a manufactured motorcycle from two wheels to three-wheel operation by the addition or substitution of a bolt-on conversion kit shall not constitute a reconstructed motorcycle.

ITEM 5. Adopt the following **new** rule 761—450.5(321):

761—450.5(321) Minimum requirements for constructing and equipping specially constructed or reconstructed autocycles. Minimum requirements for constructing and equipping specially constructed or reconstructed autocycles as defined in Iowa Code section 321.1 are as follows:

450.5(1) Application. As outlined in rule 761—400.16(321), the applicant shall submit the required application forms and exhibits to the county treasurer. The vehicle and ownership documents shall be examined by the department. If the department determines that the autocycle complies with rule 761—450.5(321), that the integral parts and components have been identified as to ownership, and that the application forms have been completed properly, the department shall assign an identification number to the autocycle and certify that the autocycle is eligible for titling and registration. If the frame or unibody specified on an application for a specially constructed, reconstructed, street rod, or replica autocycle is designated “not for highway use,” the application shall not be approved. The exchange of compatible body parts does not constitute a specially constructed, reconstructed, street rod, or replica autocycle. The removal, addition, or substitution of reconstructed autocycle parts that modifies the

TRANSPORTATION DEPARTMENT[761](cont'd)

autocycle's external appearance so that it does not reflect the original make or manufacturer model for that model does constitute a specially constructed, reconstructed, street rod, or replica autocycle.

450.5(2) *Seat belt.* A seat belt for each seat shall be installed in the autocycle in accordance with Federal Motor Vehicle Safety Standard No. 209.

450.5(3) *Seat.* A seat that is firmly attached to the autocycle and does not require the operator to straddle or sit astride shall be provided for the use of the operator.

450.5(4) *Lighting equipment.* Every autocycle shall be equipped with at least one headlamp, at least one taillight, and either a taillight or a separate white light that illuminates the license plate if a taillight does not. All original lamps and lighting equipment provided on the autocycle by the manufacturer shall be maintained in working condition or shall be replaced with equivalent equipment.

450.5(5) *Warning devices.* Every autocycle shall be equipped with at least one red reflector, either separate or as part of the taillight or taillights.

450.5(6) *Brakes.* Every autocycle shall be equipped with a braking system, other than a parking brake, in accordance with Iowa Code section 321.431.

450.5(7) *Horn.* Every autocycle shall be equipped with a horn that shall be electrically actuated and shall emit a sound clearly audible from a distance of 200 feet.

450.5(8) *Exhaust system.* Each autocycle with an internal combustion engine shall be equipped with a muffler and emission control system in accordance with federal regulation 49 CFR 393.83. When a muffler and emission control system is factory equipped, neither may be removed.

450.5(9) *Mirrors.* Every autocycle shall be equipped with a mirror that shall consist of a minimum reflective surface of 10 square inches. All mirrors shall be regular in shape (circular, oval, rectangular, or square) and shall not contain sharp edges or projections capable of producing injury.

450.5(10) *Tires.* Every autocycle shall be equipped with tires that comply with the requirements of Iowa Code section 321.440.

450.5(11) *Floor pan.* Every autocycle shall be equipped with a floor pan under the entire passenger-carrying compartment. The floor pan shall support the weight of the number of occupants that the autocycle is designed to carry. The floor pan shall be so constructed that it prevents the entry of exhaust fumes.

This rule is intended to implement Iowa Code section 321.23.

[Filed 9/9/20, effective 11/11/20]

[Published 10/7/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/7/20.

ARC 5204C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rule making related to motorcycle rider education

The Department of Transportation hereby amends Chapter 602, "Classes of Driver's Licenses," and Chapter 635, "Motorcycle Rider Education (MRE)," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 307.12 and 321.179.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 321.179 and 321.180B(5).

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Purpose and Summary

This rule making relates to motorcycle rider education; aligns with existing legal authority and Department practice; eliminates outdated or irrelevant requirements or options; and accommodates modern, electronic procedures and terminology. The following paragraphs explain the amendments in more detail:

These amendments make a conforming change to subrule 602.2(1) to provide that a certificate of completion of an approved motorcycle rider education course may be submitted electronically through the Department's online reporting system by a participating Iowa-approved motorcycle rider education provider. This rule making aligns rule 761—635.2(321), which relates to an approved course in motorcycle rider education, with current Department practice and terminology, including specifying the length of validity of the course approval and renewal procedures, as well as identifying the criteria that a motorcycle must meet to be eligible for use during the on-cycle instruction portion of an approved course.

These amendments update rule 761—635.3(321), which governs motorcycle rider education instructors, to specify the length of validity of the instructor's license and renewal procedures and to allow an instructor an additional way to qualify for an instructor's license if the instructor teaches at least one course in another state, as long as the other state's course is the same nationally recognized course that Iowa uses.

These amendments also incorporate the clear driving record standards used by the Department for behind-the-wheel driver education instructors and revise subrule 635.3(3) on license suspensions to reflect the Department's current practice of either canceling or denying the instructor's license if the instructor does not have a clear driving record or meet other qualifications specified in the rules. Finally, these amendments revise subrule 635.4(1), encompassing motorcycle rider education sponsors; rule 761—635.5(321), regarding the motorcycle rider education fund; and rule 761—635.7(321), regarding license issuance for sponsors, to align with current Department practice and terminology.

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 5102C**. 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 8, 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 person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's

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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 November 11, 2020.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 602.2(1), introductory paragraph, as follows:

602.2(1) *Certificate of completion.* Form 430036 shall be used to submit proof of successful completion of an Iowa-approved course in driver education, motorcycle rider education or motorized bicycle education, except that proof of successful completion of an Iowa-approved course in driver education or motorcycle rider education may instead be submitted through an online reporting system used by participating Iowa-approved driver education schools or motorcycle rider education providers.

ITEM 2. Amend rule 761—635.2(321) as follows:

761—635.2(321) Approved course in motorcycle rider education.

635.2(1) No change.

635.2(2) A sponsor must receive approval from the department prior to the beginning of the first class offered and annually thereafter. Private or commercial sponsors must also be licensed by the department prior to the beginning of the first class that is offered and annually thereafter. Application for license issuance or renewal shall be made to the department ~~on forms provided~~ in a manner determined by the department. The fee for a license or the renewal of a license is \$25 for a private or a commercial sponsor. The fee must be paid by cash, money order or check unless the department approves payment of the fee by electronic means. A money order or check must be for the exact amount and should be made payable to the Treasurer, State of Iowa, or the Department of Transportation.

635.2(3) A license to provide motorcycle rider education shall be issued for a calendar year or remainder of a calendar year. The license expires on December 31 but remains valid for an additional 30 days after the expiration date. The application for renewal shall be submitted to the department within 60 days of the expiration date, unless otherwise approved by the department.

635.2(4) The approved course uses a nationally recognized, research-based curriculum. Only persons successfully completing all elements of the approved course shall be issued an Iowa certificate of completion for motorcycle rider education. The certificate of completion shall be submitted to the department by the methods provided in 761—subrule 602.2(1). Issuance of an Iowa certificate of completion to persons who do not successfully complete the approved course is cause for revocation of the instructor's license and denial of reimbursement to the sponsor for each student involved.

635.2(4) 635.2(5) Prior to the beginning of on-cycle instruction, a student enrolled in the approved course must be at least 14 years of age, possess a valid driver's license as defined in Iowa Code section 321.1, be able to touch the ground with the balls of both feet while sitting astride the training motorcycle, and complete the motorcycle safety course waiver form, including the signature of a parent or legal guardian if the student is under the age of 18.

~~635.2(5)~~ **635.2(6)** The scheduled time for instruction—classroom, on-cycle, or a combination of both—shall not exceed eight hours in any one calendar day. During on-cycle instruction, a student shall wear a U.S. DOT-approved helmet, an eye-protective device, and protective clothing, including gloves, a long-sleeved shirt or jacket, long pants, and shoes or boots that cover the feet and ankles.

~~635.2(6)~~ **635.2(7)** The student-instructor ratio for classroom instruction shall not exceed 36 to 1. No more than 12 students may receive on-cycle instruction at one time on a single full-size range. The student-instructor ratio for on-cycle instruction shall not exceed 6 to 1.

~~635.2(7)~~ **635.2(8)** A driving range used for on-cycle instruction must be paved, free of hazards to motorcycle travel, and have an unobstructed, paved runoff of at least 20 feet in all directions.

~~a. and b. Rescinded IAB 9/4/02, effective 10/9/02.~~

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~~635.2(8)~~ **635.2(9)** The sponsor shall provide for each student engaged in on-cycle instruction one fully operational motorcycle manufactured for highway use.

a. Each motorcycle must meet two of the following three criteria:

~~a.~~ (1) Have an engine displacement ~~that does not exceed~~ of 500 cubic centimeters or less, or an electric motor of 30 kW or less.

~~b.~~ (2) Have an ~~unladen weight that does not exceed~~ 400 pounds a curb (wet) weight of 440 pounds or less.

~~c.~~ (3) Have a seat height ~~that does not exceed~~ of 30 inches or less.

b. A motorcycle that has been modified or contains aftermarket equipment for the purposes of meeting the criteria under paragraph 635.2(9) "*a*" shall not be used for instruction under this subrule.

~~635.2(9)~~ **635.2(10)** The driving test for a Class M driver's license or a motorcycle endorsement may be waived under 761—subrule 604.31(2) provided the applicant has successfully completed the approved course.

ITEM 3. Amend rule 761—635.3(321) as follows:

761—635.3(321) Instructors.

635.3(1) License. An instructor of the approved course must be licensed by the department. However, an individual who meets the qualifications for a license except for paragraph 635.3(2) "*d*" or ~~who is suspended~~ whose license is denied under paragraph 635.3(3) "*c*" may teach the approved course as provided in those paragraphs.

~~a. and b. Rescinded IAB 9/4/02, effective 10/9/02.~~

635.3(2) Licensing provisions. A motorcycle rider education instructor's license shall be issued for a calendar year or remainder of a calendar year. The license expires on December 31 but remains valid for an additional 30 days after the expiration date of the year it is issued. The application for renewal shall be submitted to the department within 60 days of the expiration date, unless otherwise approved by the department. To obtain and retain an MRE instructor's license, an individual must:

a. to d. No change.

e. After the year in which a license is granted, teach at least one ~~class~~ nationally recognized, research-based motorcycle rider preparation course approved by the department in Iowa or another state each calendar year.

f. No change.

g. ~~Possess a high school diploma or equivalent. This is not required for a licensed instructor who trained as an MRE instructor before July 1, 1998, and who has taught for an Iowa sponsor after January 1, 1996.~~ Have a clear driving record for the previous two years. A clear driving record means the individual has:

(1) Not been identified as a candidate for driver's license suspension under the habitual violator provisions of rule 761—615.13(321) or the serious violation provisions of rule 761—615.17(321).

(2) No driver's license suspensions, revocations, denials, cancellations, disqualifications or bars.

(3) Not committed an offense that would result in driver's license suspension, revocation, denial, cancellation, disqualification or bar.

(4) No record of a law enforcement investigative report indicating a contributive motor vehicle accident that caused the death or serious injury of another person.

(5) No record of two or more contributive motor vehicle accidents in a two-year period.

635.3(3) License suspension cancellations and denials.

a. The department shall ~~suspend~~ cancel or deny the MRE license of an MRE instructor ~~whose driving privilege is suspended, revoked, canceled, denied or barred.~~ who does not have a clear driving record under paragraph 635.3(2) "*g*." The ~~suspension~~ cancellation or denial shall remain in effect until ~~the individual's driving privilege is restored.~~ the individual has a clear driving record, as defined in paragraph 635.3(2) "*g*."

b. The department shall ~~suspend~~ cancel or deny the MRE license of an MRE instructor who fails to maintain a current instructor certification from a nationally recognized motorcycle safety organization

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approved by the department. The ~~suspension~~ cancellation or denial shall remain in effect until the certification is current.

c. Each January, the department shall review each MRE instructor's teaching activity and update completion. The department shall ~~suspend~~ deny renewal of the MRE license of an MRE instructor who fails to meet these licensing provisions. The ~~suspension~~ denial shall remain in effect until the individual has done ~~one of~~ the following:

(1) ~~Taught two classes of the approved course under the guidance of an experienced, licensed instructor approved by the department.~~

(2) ~~Attended the first instruction component of an instructor preparation weekend.~~

(3) ~~Completed an Iowa technical assistance review with an instructor trainer.~~

(1) Obtained instructor certification from a nationally recognized motorcycle safety organization approved by the department.

(2) Taught one class of the approved course under the guidance of an experienced, licensed instructor approved by the department.

ITEM 4. Amend subrule 635.4(1) as follows:

635.4(1) Sponsors shall:

a. No change.

b. Use only instructors licensed by the department to teach the approved course. However, an individual who meets the qualifications for a license except for paragraph 635.3(2) "d" or ~~who is suspended~~ whose license is denied under paragraph 635.3(3) "c" may teach the approved course as provided in those paragraphs.

c. Maintain liability insurance in an amount of not less than \$1 million, combined single limit, with an aggregate limit of not less than \$2 million, and file a certificate of this insurance with the department. The certificate shall verify coverage for scheduled courses of instruction. The certificate shall name the department and its officers, agents, representatives and employees as additional insureds with respect to all work, deliveries or services performed for them by the named insured, and shall specify that the department of transportation, ~~office of driver and identification services bureau~~, shall be given at least 30 days' prior notice of any material change in or cancellation of the insurance.

A sponsor who is a state agency or public educational institution shall provide written verification of self-insurance to the department.

d. Maintain complete instructional accident report files and furnish this information to the department ~~on forms provided~~ in a manner determined by the department.

e. No change.

f. Allow the department or the department's designee to audit any class of the approved course, either announced or unannounced.

g. No change.

~~h. Participate in the department's centralized motorcycle rider education master schedule.~~

~~i. h.~~ Provide and maintain adequate instructional facilities and equipment to accommodate all components—lecture, audio-visual, and on-cycle—of the approved course.

ITEM 5. Amend rule 761—635.5(321) as follows:

761—635.5(321) Use of motorcycle rider education fund. The motorcycle rider education fund may be used for the following purposes:

635.5(1) Course development. New or current sponsors may apply to the department for funds to establish delivery of the approved course at an unserved site. Current sponsors may apply for funds to expand delivery at an existing site.

a. No change.

b. Application for funds shall be ~~on forms provided~~ made in a manner determined by the department. Departmental approval shall be based on the geographical area, the number of students to be served and the availability of moneys in the motorcycle rider education fund. The number of

TRANSPORTATION DEPARTMENT[761](cont'd)

students to be served is determined by range size, the number of courses to be offered, and the number of sponsors providing the course.

c. No change.

635.5(2) Instructor preparation. The department shall sponsor ~~beginning~~ initial instructor preparation courses.

a. and *b.* No change.

c. Applications for enrollment shall be made ~~on forms provided~~ in a manner determined by the department.

635.5(3) and 635.5(4) No change.

635.5(5) Reimbursement of per pupil costs. The department shall reimburse a sponsor for each student who completes the approved course contingent upon the availability of moneys in the motorcycle rider education fund.

a. and *b.* No change.

c. Claims for reimbursement shall include a summary of courses taught with site, date, and instructor information, and a report for each class taught that provides the name, age, and driver's license number and gender of each student, and any other information required by the department. Claims for reimbursement shall be submitted ~~on forms provided~~ in a manner determined by the department.

d. No change.

ITEM 6. Amend rule 761—635.6(321) as follows:

761—635.6(321) Information and location. Applications, forms and information regarding this chapter are available by mail from the ~~Office of Driver and Identification Services Bureau~~, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at ~~(515)237-3153~~ (515)244-8725; ~~or~~ by facsimile at ~~(515)237-3071~~ (515)239-1837; or by email at mre.dot@iowadot.us.

ITEM 7. Amend rule 761—635.7(321) as follows:

761—635.7(321) License issuance. To be licensed to ~~teach~~ provide MRE, the sponsor's course and instructors must be approved by the department in accordance with this chapter.

635.7(1) Issuance and renewal. A license to ~~teach~~ provide MRE shall be issued for a calendar year or remainder of a calendar year. The license expires on December 31 and must be renewed annually.

635.7(2) Cancellation. A license to ~~teach~~ provide MRE shall be canceled if the course or instructors are no longer approved. Also, a license to ~~teach~~ provide MRE shall be canceled if the sponsor does not comply with this chapter.

[Filed 9/9/20, effective 11/11/20]

[Published 10/7/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/7/20.

ARC 5205C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rule making related to undercover law enforcement driver's licenses

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

Legal Authority for Rule Making

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

TRANSPORTATION DEPARTMENT[761](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 321.189A and 321.196 and 6 CFR Section 37.11(i).

Purpose and Summary

This rule making aligns the expiration date for a driver's license issued to an undercover law enforcement officer to the applicable expiration date listed in Iowa Code section 321.196 and amends the chapter's implementation sentence.

Currently under subrule 625.3(2), the Department issues driver's licenses to undercover law enforcement officers with a two-year expiration date. However, under Iowa Code section 321.196, a non-undercover law enforcement officer applicant may be issued a driver's license with up to an eight-year expiration date.

Federal REAL ID regulation, 6 CFR Section 37.11(i), provides that states may issue REAL ID driver's licenses to undercover law enforcement officers and specifies that the REAL ID credentials issued to undercover law enforcement officers shall not be distinguishable from other REAL ID credentials issued by the state.

By restricting an applicant who would be otherwise eligible for an eight-year driver's license to a two-year license, just because the applicant is an undercover law enforcement officer, there is a risk of inadvertently identifying the law enforcement officer as undercover just by the credential expiration date. In most cases, an undercover law enforcement officer applying under non-covert status would typically be eligible for an eight-year credential.

By amending this subrule, the Department will bring the credential issuance length in line with other driver's licenses issued to non-undercover law enforcement applicants and avoid the risk of identifying the credential holder as an undercover law enforcement officer just by virtue of the expiration date listed on the credential.

In accordance with Iowa Code section 321.189A, the Department consulted with the Department of Public Safety on this rule making and it was supportive of these amendments.

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 5100C**. 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 8, 2020.

Fiscal Impact

In FY 2019, the Department issued approximately 24 driver's licenses to undercover law enforcement officers. Each of these licenses has a two-year expiration date. If the licenses were increased to an eight-year expiration date at a cost of \$4.00 per each year of license validity, the Department estimates the amendment will result in approximately \$768 (\$32 x 24) being deposited annually into the Statutory Allocations Fund.

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)

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 November 11, 2020.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 625.3(2) as follows:

625.3(2) ~~A two-year~~ The license will be issued with an applicable expiration date as provided in Iowa Code section 321.196. The applicant must pay all fees and meet all requirements for the class of license applied for, except that rule 761—601.5(321) is waived in accordance with the provisions in 6 CFR ~~Part 37~~ 37.11.

ITEM 2. Amend **761—Chapter 625**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 22.7, 80G.3, ~~and~~ 321.189A ~~and~~, 321.196 and 6 CFR Part 37.

[Filed 9/9/20, effective 11/11/20]

[Published 10/7/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/7/20.

ARC 5206C

UTILITIES DIVISION[199]

Adopted and Filed

Rule making related to ratemaking principles proceeding

The Utilities Board hereby adopted Chapter 41, "Ratemaking Principles Proceeding," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 476.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 476.53 and 476.84.

Purpose and Summary

This rule making establishes initial filing requirements which apply to applications by rate-regulated public utilities for advance ratemaking principles associated with the construction of certain electric power generating facilities or the acquisition of certain water, sanitary sewage, and storm water systems.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 15, 2020, as **ARC 4865C**. An oral presentation was held on March 12, 2020, at 9 a.m. at Board Hearing Room, 1375 East Court Avenue, Des Moines, Iowa.

UTILITIES DIVISION[199](cont'd)

Following publication of the Notice of Intended Action, the Board received written comments through February 4, 2020, from MidAmerican Energy Company; Interstate Power and Light Company; Iowa-American Water Company; Facebook, Inc.; Google LLC; the Iowa Environmental Council; the Environmental Law and Policy Center; and the Office of Consumer Advocate, a division of the Iowa Department of Justice.

After the oral presentation, the Board accepted additional comments through May 19, 2020.

The Board issued an order adopting amendments on September 3, 2020. The order is available on the Board's electronic filing system under Docket No. RMU-2019-0041.

The Adopted and Filed version of the rules includes several changes from the Notice based on stakeholder comments. A comprehensive description of the changes and the rationale for making them is provided in the Board's September 3, 2020, order adopting amendments. The order is available on the Board's electronic filing system at iub.iowa.gov under Docket No. RMU-2019-0041.

Adoption of Rule Making

This rule making was adopted by the Board on September 3, 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 rule 199—1.3(17A,474,476).

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 November 11, 2020.

The following rule-making action is adopted:

Adopt the following **new** 199—Chapter 41:

CHAPTER 41 RATEMAKING PRINCIPLES PROCEEDING

199—41.1(476) Definitions.

“*Affiliate*” means a party that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with a rate-regulated public utility.

“*AFUDC*” means allowance for funds used during construction.

“*Alternate energy production facility*” means any or all of the following:

1. A solar, wind turbine, waste management, resource recovery, refuse-derived fuel, agricultural crops or residues, or woodburning facility.

UTILITIES DIVISION[199](cont'd)

2. Land, systems, buildings, or improvements that are located at the project site and are necessary or convenient to the construction, completion, or operation of the facility.

3. Transmission or distribution facilities necessary to conduct the energy produced by the facility to users located at or near the project site.

A facility which is a qualifying facility under 18 CFR Part 292, Subpart B, is not precluded from being an alternate energy production facility under this chapter.

“Baseload generation” refers to generating units designed for normal operation to serve all or part of the minimum load of the system on an around-the-clock basis. These units are operated to maximize system mechanical and thermal efficiency and minimize system operating costs.

“Combined-cycle combustion turbine” means an electric generating technology in which the efficiency of electric generation is increased by using otherwise lost waste heat exiting from one or more combustion turbines. The exiting heat is routed to a boiler or to a heat recovery steam generator for utilization by a steam turbine in the production of electricity.

“Control” means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of an enterprise through ownership, by contract or otherwise.

“Emission allowance” means an authorization, allocated by the federal Environmental Protection Agency under the Acid Rain Program, to emit up to one ton of sulfur dioxide during or after a specified calendar year.

“Facility” means a facility for which advance ratemaking principles may be sought pursuant to Iowa Code section 476.53(3) “a.” The term includes energy storage systems located at the site of an alternate energy production facility.

“kWh” means kilowatt-hour.

“Opportunity sales” means sales of electricity from a particular facility at market price after all contracted and firm transactions have been met.

“Repowering” means either the complete dismantling and replacement of generation equipment at an existing project site or the installation of new parts and equipment to an existing alternate energy production facility in order to increase energy production, reduce load, increase service capacity, improve project reliability, or extend the useful life of the facility.

“Utility” means either a rate-regulated electric public utility selling to retail customers in Iowa or a rate-regulated public utility acquiring a water, sanitary sewage, or storm water utility.

199—41.2(476) Applicability and purpose.

41.2(1) Rules 199—41.3(476) and 199—41.4(476) apply to any rate-regulated public electric utility proposing to build or lease in Iowa, either in whole or in part, a new baseload generating facility with a nameplate generating capacity equal to or greater than 300 megawatts, a new combined-cycle combustion turbine of any size, a new or repowered alternate energy production facility of any size, or any combination of the above, and desiring predetermination of ratemaking principles to be used in establishing the retail cost recovery of such a facility. These rules set the initial filing requirements in a ratemaking principles proceeding depending on the specific circumstances of a filing.

41.2(2) Rule 199—41.5(476) applies to any rate-regulated public utility acquiring a water, sanitary sewage, or storm water system with a fair market value of \$500,000 or more from a non-rate-regulated entity described in Iowa Code section 476.1(4). Rule 199—41.5(476) sets the initial filing requirements in a ratemaking principles proceeding related to the acquisition.

41.2(3) The board may require additional information from an applicant on a case-by-case basis.

199—41.3(476) Application for predetermined ratemaking principles; contents. Each person or group of persons proposing to construct, repower, or lease a facility and desiring predetermination of ratemaking principles for costing that facility shall file an application with the board. An application may be for one facility or a combination of facilities necessary to meet the current and future resource needs of the utility. An application for ratemaking principles must demonstrate that the utility has considered other sources for long-term electric supply and that the facility or lease is reasonable when compared to other feasible alternative sources of supply. At a minimum, an application shall substantially comply

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with the following informational requirements to the extent such information is reasonably available. Any omission of required information on the basis that it is not reasonably available shall be adequately justified by the applicant. The board will consider such omissions on a case-by-case basis and may require the applicant to provide additional information.

41.3(1) General information. An application shall include the following general information:

- a. The purpose of the proposed facility.
- b. A complete description of the current and proposed rights of ownership in the proposed facility and current or planned purchased power contracts with respect to the proposed facility.
- c. For a baseload electric power generating facility with a nameplate generating capacity equal to or greater than 300 megawatts, a combined-cycle electric power generating facility, or repowering of a facility, a general site description including a legal description of the site; a map showing the coordinates of the site and its location with respect to state, county, and other political subdivisions; and prominent features such as cities, lakes, rivers, and parks within the site impact area. For an alternative energy production facility, to the extent feasible, a general site description including a description of the site location or locations; map(s) showing the coordinates of the site(s) and location(s) with respect to state, county, and other political subdivisions; and prominent features such as cities, lakes, rivers and parks within the site impact area(s).
- d. A general description of the proposed facility, including a description of the expected principal characteristics of the facility such as the capacity of the proposed facility in megawatts expressed by the contract maximum generator megawatt rating, the expected net facility addition to the system in megawatts by net to the busbar rating, and the portion of the design capacity, in megawatts, of the proposed facility which is proposed to be available for use by each participant; the expected number and type of generating units; the primary fuel source for each such unit; the total hours of operation anticipated seasonally and annually and output during these hours; the expected capacity factors; a description of the expected general arrangement of major structures and equipment to provide the board with an understanding of the general layout of the facility; and a projected schedule for the facility's construction and utilization, including the projected date when a significant site alteration is proposed to begin and the projected in-service date of the facility. For this purpose, a group of several similar generating units operated together at the same location such that segregated records of energy output are not available shall be considered a single unit.
- e. A general description of the raw materials, including fuel, used by the proposed facility in producing electricity and of the wastes created in the production process. In addition to describing the wastes created in the production process, the applicant shall determine annual expected emissions from the facility and provide a plan for acquiring allowances sufficient to offset these emissions. The applicant shall describe all transportation facilities currently operating that will be available to serve the proposed facility, and any additional transportation facilities needed to deliver raw materials and to remove wastes.
- f. An identification, general description, and chronology of all material financial and other contractual commitments undertaken or planned to be undertaken with respect to the proposed facility.
- g. A general map and description of the primary transportation corridors and the approximate routing of the rights-of-way in the vicinity of the settled areas, parks, recreational areas, and scenic areas.
- h. A general analysis of the existing transmission system's capability to reliably support the proposed additional generation interconnection to the system. In the alternative, the applicant may provide testimony that (1) it will follow the interconnection requirements of the local and regional transmission authorities; (2) it is committed to meeting the pertinent transmission requirements with respect to the proposed facility; and (3) the applicant assures the board that the interconnection of the proposed facility will not degrade the adequacy, reliability, or operating flexibility of the transmission system from a regional or local perspective.
- i. Identification of the general contractor for the proposed facility and the method by which the general contractor was selected. If a general contractor has not yet been selected, the utility shall identify the process by which the general contractor will be selected and the anticipated timeline for selecting a general contractor.

UTILITIES DIVISION[199](cont'd)

j. Identification of the plant operator for the proposed facility and the method by which the plant operator was selected. If a plant operator has not yet been selected, the utility shall identify the process by which a plant operator will be selected and the anticipated timeline for selecting a plant operator.

41.3(2) *Economic evaluation of proposed facility.* An application shall include an overall economic evaluation of the proposed facility using conventional capital evaluation techniques and the proposed ratemaking principles. Material assumptions used in the analysis shall be disclosed. At a minimum, the evaluation shall include:

a. Net present value calculations. An application shall include projected annual and total net present value calculations of projected revenue requirements and capital costs over the expected life of the proposed facility. If a traditional revenue requirement analysis does not account for revenue-sharing arrangements, riders, or other mechanisms that impact Iowa retail customer bills, the utility shall also provide projected annual and total net present value calculations that show the impact on amounts that will actually be paid by Iowa retail customers accounting for such mechanisms. To the extent the utility has projected revenue deficiencies within the period of analysis, the utility shall also provide the estimated effect the proposed facility will have on these calculations. In making these calculations, the utility shall detail the following cost assumptions:

(1) Installed cost. The utility shall provide an itemized statement of the estimated total costs to construct the proposed facility. Such estimated costs shall include, but not be limited to, the estimated cost of all electric power generating units; all electric supply lines within the proposed facility site boundary; all electric supply lines beyond the proposed facility site boundary with a voltage of 69 kilovolts or higher used for transmitting power from the proposed facility to the point of junction with the distribution system or with the interconnected primary transmission system; all appurtenant or miscellaneous structures used and useful in connection with the proposed facility or any part thereof; all rights-of-way, lands, or interest in lands the use and occupancy of which are necessary or appropriate in the maintenance or operation of said facility; engineering and development; sales taxes; and AFUDC (if applicable). The estimated costs of all electric power generating units shall include all estimated costs of transmission and gas interconnection (if applicable). Estimated facility costs shall be expressed in absolute terms and in dollars per kilowatt. The absolute and per-kilowatt estimated construction costs shall be adjusted by the expected rate of inflation from the time the estimated construction costs are calculated to the time the proposed facility is scheduled for operation.

(2) Fixed expenses. For each year of the proposed facility's expected life from the time of application to the end of the proposed facility's expected life, the utility shall file projected expense factors for fixed operation and maintenance costs; property, income, and other taxes; and straight-line and tax depreciation rights.

(3) Variable expenses. For each year of the proposed facility's expected life from the scheduled time of operation to the end of the proposed facility's expected life, the utility shall file expected variable operation and maintenance costs including the cost of fuel and emission allowances. These expected costs shall be reported in absolute terms and on a kWh basis assuming expected annual capacity factors for the proposed facility.

b. Cost of capital. The utility shall provide its projected costs of capital for the proposed facility for each year of the proposed facility's expected life from the time of application to the end of the proposed facility's expected life. Material assumptions used in the projections shall be provided, including but not limited to capital structure, cost of preferred stock, cost of debt, and cost of equity.

c. Cash flows. The utility shall provide the estimated maximum, minimum and expected cash inflows and outflows associated with the proposed facility in each year from the date of the application throughout the proposed facility's expected life.

41.3(3) *Risk mitigation factors.* At a minimum, the following information regarding contractual risk mitigation factors shall be included in an application:

a. Construction risk mitigation factors. The utility shall provide a general description of the contractual standards that the general contractor, if not the utility, must comply with to mitigate construction risks, including but not limited to cost overruns, labor shortages, failure to meet deadlines, and the need for replacement power if operational deadlines are not met. If the facility will be leased

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by the utility, the utility shall identify the above factors for both the lessor and the general contractor constructing the facility. The general description shall include all remedies, financial and otherwise, available to the utility for noncompliance with the construction standards and schedules.

b. Operational risk mitigation factors. The utility shall provide a general description of the contractual standards that the general contractor or the plant operator, if not the utility, must comply with to mitigate operational risks of the facility, including but not limited to low-availability factor and higher-than-expected operation and maintenance costs. The general description shall include a list of all contractual inspections the general contractor must meet before the utility leases or takes ownership of the facility and all remedies, financial and otherwise, available to the utility for noncompliance with the operating standards. If the utility leases the facility from an affiliate, the lease shall contain specific performance standards that the affiliate must meet to avoid financial consequences.

41.3(4) *Noncost factors.* The utility shall include in its application a comparison of the proposed facility with other feasible sources of supply related to the following noncost factors:

a. Economic impact to the state and community where the facility is proposed to be located, including job creation, taxes, and use of state resources.

b. Environmental impact to the state and community where the facility is proposed to be located.

c. Electric supply reliability and security in the state.

d. Fuel diversity and use of nontraditional supply sources such as alternate energy and conservation.

e. Efficiency and control technologies.

41.3(5) *Filing requirements for proposed ratemaking principles.* Each ratemaking principle proposed shall be supported as described in this subrule. Proposed ratemaking principles not envisioned by these rules shall be supported by sufficient evidence to justify the use of such principles in costing the facility for regulated retail rate recovery.

a. Cost of equity. Proposals for establishing the cost of equity shall be supported with analyses which demonstrate the reasonableness of the proposed equity rate for the proposed facility. If sufficient information is available, the analyses shall include a comparison with similar facilities built in the region in recent years.

b. Depreciable life. Proposals for establishing the depreciable life of the facility shall be supported by board precedent for the depreciable lives of similar facilities, the manufacturer's opinion of depreciable life, the applicant's general depreciation study or analysis, or an engineering study of the depreciable life of the type of facility proposed.

c. Jurisdictional allocations. Proposals for allocating the cost or output of the proposed facility among jurisdictions shall be supported by jurisdictional allocation studies or recent board-ordered or -approved allocations for the applicant.

41.3(6) *Additional application requirements for leasing arrangements.* The following additional information shall be filed when a utility is proposing an arrangement in which the utility leases a facility from an affiliate or an independent third party:

a. Identification of the method used in selecting the affiliate or independent third party to build the facility (competitive solicitation, sole source, etc.).

b. A copy of the lease agreement.

c. A detailed description of the lease agreement, including but not limited to the following:

(1) Commitment of capacity from the proposed facility to the utility under the lease agreement.

(2) Description of the final disposition of the leased facility at the end of the lease arrangement, including any options available to the utility and the terms of those options.

(3) Identification of the party responsible for operating, dispatching, and maintaining the facility.

(4) Identification of the party responsible for the cost of capital improvements, renewals and replacements, environmental compliance, taxes, and all other future costs associated with the facility.

(5) Identification of the party responsible for contracting capacity from the proposed facility.

(6) Identification of the party benefitting from revenues received through contracted capacity and opportunity sales.

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d. If the lessor is an affiliate, a detailed description of the affiliate, including the affiliate's corporate structure and the utility's ownership stake in the affiliate, if any.

e. If the lessor is an affiliate, identification of utility assets transferred to the affiliate for use by the proposed facility and the cost at which those assets were transferred.

f. If the lessor is an affiliate, identification of any financial benefits and cost savings, including any tax advantages, accruing to the utility from leasing an affiliate-owned facility versus building a facility itself.

199—41.4(476) Coincident filing. The utility shall have the option of filing its application for ratemaking principles, as required by this chapter, coincident with the utility's application for a certificate of public convenience, use, and necessity under 199—Chapter 24. Identical information required by both chapters need only be included once in a joint principles and certification application.

199—41.5(476) Acquisition of a water, sanitary sewage, or storm water utility. A rate-regulated public utility proposing to acquire, in whole or in part, a water, sanitary sewage, or storm water system with a fair market value of \$500,000 or more from a non-rate-regulated entity described in Iowa Code section 476.1(4) shall file an application for approval of the acquisition with the board. If the acquisition is approved, ratemaking principles that will apply when the costs of the acquisition are included in regulated rates shall be determined as part of the board's review of the application. At a minimum, an application made under this rule shall substantially comply with the following informational requirements, to the extent such information is reasonably available. Any omission of required information on the basis that it is not reasonably available shall be adequately justified by the applicant. The board will consider such omissions on a case-by-case basis and may require the applicant to provide additional information.

41.5(1) General information. An application shall include the following general information:

a. A general description of the system to be acquired, including the total number of customers, a description of the general arrangement of major structures and equipment, maps of the system, and a general description of the scope of the system.

b. The identification and general description of all material capital investments and operating expenses associated with the proposed acquisition anticipated within five years of the date of the acquisition.

c. A proposed procedural schedule that, at a minimum, provides proposed dates for direct testimony, rebuttal testimony, and a hearing for cross-examination of all testimony. The proposed schedule should generally comply with the board's procedural rules in 199—Chapter 7.

41.5(2) Acquisition information. An application shall include the following information related to the acquisition:

a. The final reports of both appraisals prepared pursuant to Iowa Code section 388.2A(2) "a"(2).

b. Final fair market value of the system as identified in Iowa Code section 388.2A(2) "b."

c. The final price for the system as negotiated pursuant to Iowa Code section 388.2A(2) "c."

d. An inventory of the acquired system's real and personal property as identified in Iowa Code section 388.2A(2) "d."

e. A financial information sheet prepared pursuant to Iowa Code section 388.2A(2) "e."

f. An affirmation that the acquiring utility and the acquired system have complied with the applicable components of Iowa Code section 388.2A.

g. The proposed acquisition contract.

41.5(3) Impact of acquisition. An application shall include the following information related to the acquired system and its potential impact on the acquiring utility:

a. If the acquired system is not in compliance with applicable local, state, or federal standards, estimates of the approximate cost and time required to put the system in compliance with such standards.

b. A description of anticipated capital investments and retirements for the acquired system, including estimated dollar amounts, for each of the first five years after the acquisition.

c. Any anticipated staffing changes due to the proposed acquisition.

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d. A description of the proposed accounting to be utilized in any transfer of assets necessary to accomplish the acquisition.

e. A description of the anticipated effects of the acquisition, including a cost-benefit analysis which describes the projected benefits and costs of the acquisition, quantified in terms of present value and identifying the sources of such benefits and costs.

f. An analysis of the projected financial impact of the acquisition on the ratepayers of each of the affected utilities for each of the first five years after the acquisition.

g. Historical and projected fixed expenses for the acquired system, including expense factors for fixed operation and maintenance costs.

h. Historical and projected variable expenses for the acquired system, including expected variable operation and maintenance costs.

i. The estimated maximum, minimum, and expected cash inflows and outflows for the acquired system.

j. A description of the financing components of the acquisition and an analysis of the impacts on the acquiring utility's ability to attract capital on reasonable terms and to maintain a reasonable capital structure.

41.5(4) *Ratemaking principles.* Each ratemaking principle proposed shall be supported as described in this subrule. Proposed ratemaking principles not envisioned by these rules shall be supported by sufficient information to justify the use of such principles.

a. Cost of equity. The utility shall file financial models demonstrating the proposed equity rate or range of equity rates necessary to attract equity capital for the proposed acquisition. The financial analysis shall include a risk assessment of the proposed acquisition, including a comparison with similar acquisitions.

b. Ratepayer allocations. Proposals for allocating the cost of the acquired system and anticipated improvements to customers of the acquired system and the utility's existing customers shall include information showing that the proposed allocation will result in rates that are just and reasonable for both groups of customers.

c. Initial depreciable value. Proposals for establishing the value of the acquired system to be used as the initial gross asset balance for depreciation shall be supported by the lesser of the sale price or the fair market value of the system as determined consistent with Iowa Code section 388.2A(2) "b." The utility shall also provide the accumulated depreciation balances for the assets.

d. Depreciable life. Proposals for establishing rates which will be used to depreciate the acquired system shall be supported by a depreciation study or by depreciation rates applied in the utility's last general rate case.

41.5(5) *At-risk systems.* An application shall state whether the system to be acquired is an at-risk system, as defined by Iowa Code section 455B.199D as enacted by 2020 Iowa Acts, House File 2452. If the board determines that an application to acquire an at-risk system does not contain sufficient information consistent with this rule to render a timely decision, the board may reject the application without prejudice.

199—41.6(476) Waiver. A utility may seek a waiver of any requirement of this chapter. The request for a waiver shall include the utility's reasons for believing the requirement is not applicable or necessary. A request for a waiver shall also comply with rule 199—1.3(17A,474,476).

These rules are intended to implement Iowa Code sections 476.53 and 476.84.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/7/20.

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

ADMINISTRATIVE SERVICES DEPARTMENT[11]

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.