



IOWA ADMINISTRATIVE BULLETIN

Published Biweekly

VOLUME XLI
October 10, 2018

NUMBER 8
Pages 809 to 955

CONTENTS IN THIS ISSUE

Pages 818 to 955 include **ARC 4042C** to **ARC 4079C**

ADMINISTRATIVE SERVICES

DEPARTMENT[11]

- Notice, Applicants for executive branch positions—disclosure requirements, 50.1, 54.2, 54.8 **ARC 4045C** 818
- Notice, Procurement policies and procedures, amendments to chs 103, 117, 118 **ARC 4050C** 820
- Filed, Update of references—department organization, statutory citations, addresses, amendments to chs 1, 4 to 9, 41, 42, 48, 55, 56, 58, 59, 61, 62, 64 to 66, 71, 100 to 103, 119 **ARC 4053C** 863

ALL AGENCIES

- Agency identification numbers 816
- Citation of administrative rules 811
- Schedule for rule making 812

BANKING DIVISION[187]

COMMERCE DEPARTMENT[181]“umbrella”

- Filed, Organizational structure of the division, 1.3 **ARC 4054C** 876
- Filed, Application procedures, amendments to ch 2 **ARC 4055C** 879
- Filed, Public records and fair information practices, amendments to ch 7 **ARC 4056C** 882
- Filed, General banking powers, 8.8, 8.9 **ARC 4057C** 884
- Filed, Real estate lending; leasing, 9.2, 9.3 **ARC 4058C** 885
- Filed, Contested cases, amendments to ch 11 **ARC 4059C** 888
- Filed, Waivers and variances—update of citations, amendments to ch 12 **ARC 4060C** 895
- Filed, Debt management, ch 20 **ARC 4061C** 897

CORRECTIONS DEPARTMENT[201]

- Filed, Institutions administration—pornographic materials ban, 20.2, 20.6 **ARC 4062C** 903

ECONOMIC DEVELOPMENT

AUTHORITY[261]

- Notice, Renewable chemical production tax credit program—definition of “building block chemical,” 81.2 **ARC 4043C** 824
- Filed, Iowa energy center, ch 403 **ARC 4063C** 906

EDUCATION DEPARTMENT[281]

- Notice, Career and technical education, 46.1, 46.6, 46.7, 46.9, 46.10, 46.11(4) **ARC 4048C** 826
- Notice, Supplemental career information systems for use in career and academic planning, 49.6(4) **ARC 4049C** 829

HUMAN SERVICES DEPARTMENT[441]

- Amended Notice, Mental health and disability services regions, amendments to ch 25 **ARC 4044C** 831
- Filed, Waiver of right to administrative disqualification hearing for alleged intentional food assistance program violation, 7.8(6)“f,” 7.10(3)“b,” 7.16, 7.21 **ARC 4064C** 910
- Filed, Provider reimbursement for case management and targeted case management, 79.1(1)“d,” 79.1(2) **ARC 4065C** 913
- Filed, Adjustment of home health agency reimbursement rates, 79.1(2) **ARC 4066C** 917

HUMAN SERVICES DEPARTMENT[441] (Cont'd)

Filed, Medical assistance—inpatient hospital readmission policy, 79.1(5)“g” ARC 4067C	918
Filed, Medicaid—pharmacy copayment, 79.1(13)“a” ARC 4068C	920
Filed Emergency After Notice, Special population nursing facility criteria—increase in age limit, inclusion of residents in an intermediate care facility for persons with medical complexity, 81.1, 82.1 ARC 4052C	861
Filed, Family planning program—participating providers, distribution of funds, amendments to ch 87 ARC 4069C	921
INSPECTIONS AND APPEALS DEPARTMENT[481]	
Filed, Minimum construction standards for hospitals, 51.50 ARC 4070C	923
LABOR SERVICES DIVISION[875] <small>WORKFORCE DEVELOPMENT DEPARTMENT[871]“umbrella”</small>	
Filed, Federal occupational safety and health standards for exposure to beryllium—adoption by reference, 10.20 ARC 4071C	925
NATURAL RESOURCE COMMISSION[571] <small>NATURAL RESOURCES DEPARTMENT[561]“umbrella”</small>	
Filed, Licenses—fees, 15.1, 15.12 ARC 4072C	927
PHARMACY BOARD[657] <small>PUBLIC HEALTH DEPARTMENT[641]“umbrella”</small>	
Filed, Correctional pharmacy practice, 15.4, 15.5(3), 15.7, 15.8(1) ARC 4073C	930
PROFESSIONAL LICENSURE DIVISION[645] <small>PUBLIC HEALTH DEPARTMENT[641]“umbrella”</small>	
Notice, Podiatrists, orthotists, prosthetists, and pedorthists—continuing education, practice, discipline, 222.3, 223.5, 224.2(32) ARC 4051C	832

PUBLIC HEALTH DEPARTMENT[641]

Filed, Outpatient diabetes education programs, amendments to ch 9 ARC 4074C	932
Filed, Maternal and child health program, amendments to ch 76 ARC 4075C	935
Filed, Center for rural health and primary care, amendments to ch 110 ARC 4076C	938
Filed, Iowa law enforcement emergency care provider, rescind ch 139 ARC 4077C	945
Filed, Medical cannabidiol program, 154.26, 154.27(5), 154.28(4), 154.51(3), 154.52(4), 154.69, 154.71, 154.72(1) ARC 4078C	946

PUBLIC HEARINGS

Summarized list	813
-----------------------	-----

REGENTS BOARD[681]

Filed, Regent admission index—change in calculation, 1.1(2) ARC 4079C	952
------------------------------------------------------------------------------------	-----

REVENUE DEPARTMENT[701]

Notice, Assessment/sales ratio study—supplementary tools, 71.12 ARC 4042C	834
----------------------------------------------------------------------------------------	-----

UTILITIES DIVISION[199]COMMERCE DEPARTMENT[181]“umbrella”

Notice, Rate cases, tariffs, and rate regulation election practice and procedure, amendments to ch 26 ARC 4046C ...	836
----------------------------------------------------------------------------------------------------------------------------	-----

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Notice, Overpayment of benefits—repayment, 25.7(6), 25.8(1) ARC 4047C	858
------------------------------------------------------------------------------------	-----

PREFACE

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

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

The Bulletin may also contain public funds interest rates [12C.6]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)"a"]; and agricultural credit corporation maximum loan rates [535.12].

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

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CITATION of Administrative Rules

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

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

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

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

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

Schedule for Rule Making 2018

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

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
10	Friday, October 19, 2018	November 7, 2018
11	Wednesday, October 31, 2018	November 21, 2018
12	Wednesday, November 14, 2018	December 5, 2018

PLEASE NOTE:

Rules will not be accepted after **12 o'clock noon** on the filing deadline unless prior approval has been received from the Administrative Rules Coordinator's office.

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

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

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Update of processes, procedures, and references, amendments to chs 4, 6, 43, 45, 46, 60, 64, 71, 103, 110, 117 to 119 IAB 9/26/18 ARC 4021C	Conference Room 5, A Level Hoover State Office Bldg. Des Moines, Iowa	October 18, 2018 10 to 11 a.m.
Applicants for executive branch positions—disclosure requirements, 50.1, 54.2, 54.8 IAB 10/10/18 ARC 4045C	Procurement Conference Room, A Level Hoover State Office Bldg. Des Moines, Iowa	October 30, 2018 1 to 2 p.m.
Hiring of Iowa national service corps or AmeriCorps participants, 54.5(3) IAB 9/26/18 ARC 4019C	Conference Room 5, A Level Hoover State Office Bldg. Des Moines, Iowa	October 17, 2018 3 to 4 p.m.
Peace officers and fire fighters—continuation of benefits, 64.15(3) IAB 9/26/18 ARC 4020C	Conference Room 5, A Level Hoover State Office Bldg. Des Moines, Iowa	October 16, 2018 10 to 11 a.m.
Procurement policies and procedures, amendments to chs 103, 117, 118 IAB 10/10/18 ARC 4050C	Procurement Conference Room, A Level Hoover State Office Bldg. Des Moines, Iowa	October 31, 2018 10 to 11 a.m.
Procurement of state vehicles—elimination of life cycle costing, 117.12 IAB 9/26/18 ARC 4018C	Conference Room 5, A Level Hoover State Office Bldg. Des Moines, Iowa	October 17, 2018 2 to 3 p.m.

EDUCATION DEPARTMENT[281]

Career and technical education, 46.1, 46.6, 46.7, 46.9, 46.10, 46.11(4) IAB 10/10/18 ARC 4048C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	October 30, 2018 10 to 11 a.m.
Supplemental career information systems for use in career and academic planning, 49.6(4) IAB 10/10/18 ARC 4049C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	October 30, 2018 9 to 10 a.m.

HUMAN SERVICES DEPARTMENT[441]

Mental health and disability services regions, amendments to ch 25 IAB 10/10/18 ARC 4044C	Polk County River Place Rooms 1 and 1A 2309 Euclid Ave. Des Moines, Iowa	November 14, 2018 2:30 to 4:30 p.m.
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INSURANCE DIVISION[191]

Fully insured multiple employer welfare arrangements; fully insured and self-insured association health plans, 77.4 to 77.6 IAB 9/26/18 ARC 4041C	Division Offices, Fourth Floor Two Ruan Center 601 Locust St. Des Moines, Iowa	October 30, 2018 11 a.m. to 12 noon
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MANAGEMENT DEPARTMENT[541]

Suspension and reinstatement of state funds, ch 13 IAB 9/26/18 ARC 4008C	State Capitol, Room 116 1007 E. Grand Ave. Des Moines, Iowa	October 24, 2018 9 to 11 a.m.
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PROFESSIONAL LICENSING AND REGULATION BUREAU[193]

Organization and operation, amendments to ch 1 IAB 9/26/18 ARC 4007C	Bureau Offices, Suite 350 200 E. Grand Ave. Des Moines, Iowa	October 16, 2018 9 a.m.
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PROFESSIONAL LICENSURE DIVISION[645]

Podiatrists, orthotists, prosthetists, and pedorthists—continuing education, practice, discipline, 222.3, 223.5, 224.2(32) IAB 10/10/18 ARC 4051C	Fifth Floor Board Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	October 30, 2018 8 to 9 a.m.
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Speech pathologists and audiologists—licensure by endorsement, 300.9 IAB 9/26/18 ARC 4035C	Fifth Floor Board Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	October 16, 2018 8:30 to 9 a.m.
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Speech pathologists and audiologists—code of ethics, 304.2(31) IAB 9/26/18 ARC 4036C	Fifth Floor Board Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	October 16, 2018 8:30 to 9 a.m.
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PUBLIC HEALTH DEPARTMENT[641]

Concussion and brain injury return-to-play protocol, ch 54 IAB 9/26/18 ARC 4034C	Room 518 Lucas State Office Bldg. Des Moines, Iowa	October 16, 2018 10:30 to 11:30 a.m.
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REAL ESTATE APPRAISER EXAMINING BOARD[193F]

Real estate appraiser qualification criteria, amendments to chs 1, 3 to 6, 15 IAB 9/26/18 ARC 4006C	Small Conference Room, Third Floor 200 E. Grand Ave. Des Moines, Iowa	October 16, 2018 8:30 to 9:30 a.m.
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REVENUE DEPARTMENT[701]

Section 179 expensing, 40.65,
53.23, 59.24
IAB 9/26/18 **ARC 4022C**

Auditorium
Wallace State Office Bldg.
Des Moines, Iowa

October 17, 2018
9 to 10 a.m.
(If requested)

Research activities credit, 42.11,
52.7
IAB 9/26/18 **ARC 4025C**

Auditorium
Wallace State Office Bldg.
Des Moines, Iowa

October 17, 2018
10 to 11 a.m.

State-imposed and locally
imposed hotel and motel taxes,
amend chs 103, 241; rescind
chs 104, 105
IAB 9/26/18 **ARC 4024C**

Auditorium
Wallace State Office Bldg.
Des Moines, Iowa

October 17, 2018
11 a.m. to 12 noon
(If requested)

UTILITIES DIVISION[199]

Rate cases, tariffs, rate regulation
election practice and procedure,
amendments to ch 26
IAB 10/10/18 **ARC 4046C**

Board Hearing Room
1375 E. Court Ave.
Des Moines, Iowa

December 18, 2018
10:30 a.m. to 12:30 p.m.

The following list will be updated as changes occur.

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

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

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

ADMINISTRATIVE SERVICES DEPARTMENT[11]
 AGING, DEPARTMENT ON[17]
 AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]
 Soil Conservation and Water Quality Division[27]
 ATTORNEY GENERAL[61]
 AUDITOR OF STATE[81]
 BEEF CATTLE PRODUCERS ASSOCIATION, IOWA[101]
 BLIND, DEPARTMENT FOR THE[111]
 CAPITAL INVESTMENT BOARD, IOWA[123]
 CHIEF INFORMATION OFFICER, OFFICE OF THE[129]
 OMBUDSMAN[141]
 CIVIL RIGHTS COMMISSION[161]
 COMMERCE DEPARTMENT[181]
 Alcoholic Beverages Division[185]
 Banking Division[187]
 Credit Union Division[189]
 Insurance Division[191]
 Professional Licensing and Regulation Bureau[193]
 Accountancy Examining Board[193A]
 Architectural Examining Board[193B]
 Engineering and Land Surveying Examining Board[193C]
 Landscape Architectural Examining Board[193D]
 Real Estate Commission[193E]
 Real Estate Appraiser Examining Board[193F]
 Interior Design Examining Board[193G]
 Utilities Division[199]
 CORRECTIONS DEPARTMENT[201]
 Parole Board[205]
 CULTURAL AFFAIRS DEPARTMENT[221]
 Arts Division[222]
 Historical Division[223]
 EARLY CHILDHOOD IOWA STATE BOARD[249]
 ECONOMIC DEVELOPMENT AUTHORITY[261]
 City Development Board[263]
 IOWA FINANCE AUTHORITY[265]
 EDUCATION DEPARTMENT[281]
 Educational Examiners Board[282]
 College Student Aid Commission[283]
 Higher Education Loan Authority[284]
 Iowa Advance Funding Authority[285]
 Libraries and Information Services Division[286]
 Public Broadcasting Division[288]
 School Budget Review Committee[289]
 EGG COUNCIL, IOWA[301]
 ENERGY INDEPENDENCE, OFFICE OF[350]
 ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]
 EXECUTIVE COUNCIL[361]
 FAIR BOARD[371]
 HUMAN RIGHTS DEPARTMENT[421]
 Community Action Agencies Division[427]
 Criminal and Juvenile Justice Planning Division[428]
 Deaf Services Division[429]
 Persons With Disabilities Division[431]
 Latino Affairs Division[433]
 Status of African-Americans, Division on the[434]

Status of Women Division[435]
Status of Iowans of Asian and Pacific Islander Heritage[436]
HUMAN SERVICES DEPARTMENT[441]
INSPECTIONS AND APPEALS DEPARTMENT[481]
Employment Appeal Board[486]
Child Advocacy Board[489]
Racing and Gaming Commission[491]
State Public Defender[493]
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]
IOWA PUBLIC INFORMATION BOARD[497]
LAW ENFORCEMENT ACADEMY[501]
LIVESTOCK HEALTH ADVISORY COUNCIL[521]
LOTTERY AUTHORITY, IOWA[531]
MANAGEMENT DEPARTMENT[541]
Appeal Board, State[543]
City Finance Committee[545]
County Finance Committee[547]
NATURAL RESOURCES DEPARTMENT[561]
Energy and Geological Resources Division[565]
Environmental Protection Commission[567]
Natural Resource Commission[571]
Preserves, State Advisory Board for[575]
PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]
PREVENTION OF DISABILITIES POLICY COUNCIL[597]
PROPANE EDUCATION AND RESEARCH COUNCIL, IOWA[599]
PUBLIC DEFENSE DEPARTMENT[601]
HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]
Military Division[611]
PUBLIC EMPLOYMENT RELATIONS BOARD[621]
PUBLIC HEALTH DEPARTMENT[641]
Professional Licensure Division[645]
Dental Board[650]
Medicine Board[653]
Nursing Board[655]
Pharmacy Board[657]
PUBLIC SAFETY DEPARTMENT[661]
RECORDS COMMISSION[671]
REGENTS BOARD[681]
Archaeologist[685]
REVENUE DEPARTMENT[701]
SECRETARY OF STATE[721]
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]
TRANSPORTATION DEPARTMENT[761]
TREASURER OF STATE[781]
TURKEY MARKETING COUNCIL, IOWA[787]
UNIFORM STATE LAWS COMMISSION[791]
VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]
VETERINARY MEDICINE BOARD[811]
VOLUNTEER SERVICE, IOWA COMMISSION ON[817]
VOTER REGISTRATION COMMISSION[821]
WORKFORCE DEVELOPMENT DEPARTMENT[871]
Labor Services Division[875]
Workers' Compensation Division[876]
Workforce Development Board and Workforce Development Center Administration Division[877]

ARC 4045C**ADMINISTRATIVE SERVICES DEPARTMENT[11]****Notice of Intended Action****Proposing rule making related to applicants for executive branch positions and providing an opportunity for public comment**

The Department of Administrative Services hereby proposes to amend Chapter 50, “Human Resources Definitions,” and Chapter 54, “Recruitment, Application and Examination,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 8A.104, 17A.3 and 17A.4 and sections 8A.403 and 8A.413(5A) as enacted by 2018 Iowa Acts, Senate File 2323.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 8A.403 and 8A.413(5A) as enacted by 2018 Iowa Acts, Senate File 2323.

Purpose and Summary

2018 Iowa Acts, Senate File 2323, relates to prohibitions and disclosure requirements concerning outside employment or activities requiring registration as a foreign agent and makes penalties applicable. 2018 Iowa Acts, Senate File 2323, requires the Department of Administrative Services to establish by rule procedures for applicants applying for both nonmerit and merit-covered executive branch positions to disclose in the application for employment whether the applicant has filed a registration statement pursuant to the federal Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. §611 et seq. The proposed amendments comport with 2018 Iowa Acts, Senate File 2323.

Fiscal Impact

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

Jobs Impact

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

Waivers

The Department will not grant waivers under the provisions of these rules, other than as may be allowed under Chapter 9 of the Department’s rules concerning waivers.

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 30, 2018. Comments should be directed to:

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

Tami Wienczek
Department of Administrative Services
Hoover State Office Building
1305 East Walnut Street
Des Moines, Iowa 50319-0114
Phone: 515.725.2017
Fax: 515.281.6140
Email: tami.wienczek@iowa.gov

Public Hearing

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

October 30, 2018
1 to 2 p.m.

Procurement Conference Room, A Level
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. Adopt the following **new** definition of "Nonmerit" in rule **11—50.1(8A)**:
"Nonmerit" means a position that is exempt from the merit system.

ITEM 2. Amend subrule 54.2(1) as follows:

54.2(1) Applicant information. Applicant information shall be on forms prescribed by the director unless an alternate method has been authorized. Applicants must supply at least their name, current mailing address, signature and social security number; however, if an applicant requests, a nine-digit number will be assigned by the department to be used in lieu of the social security number. If other than the social security number is requested, it shall be the applicant's responsibility to ensure that all future correspondence directed to the department regarding the applicant's records contains the assigned nine-digit number. All other information requested on the application will assist the department in accurately and completely processing and evaluating the application. Applications that are not complete may not be regarded as an official application and may not be processed. The director may require an applicant to submit documented proof of the possession of any license, certificate, degree, or other evidence of eligibility or qualification to satisfactorily perform the essential duties of the job with or without a reasonable accommodation. An applicant shall also disclose in the application whether the applicant has filed a registration statement pursuant to the federal Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. §611 et seq.

ITEM 3. Amend subrule 54.2(6) as follows:

54.2(6) Disqualification or removal of applicants. The director may refuse to place an applicant on a list of eligibles, refuse to refer an applicant for a vacancy, refuse to approve the appointment of an applicant, or remove an applicant from a list of eligibles for a position if it is found that the applicant:

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

- a. Does not meet the minimum qualifications or selective requirements for the job class or position as specified in the job class description, vacancy announcement, administrative rules, or law.
- b. Is incapable of performing the essential functions of the job classification or position and a reasonable accommodation cannot be provided.
- c. Has knowingly misrepresented the facts when submitting information relative to an application, examination, certification, appeal, or any other facet of the selection process.
- d. Has used or attempted to use coercion, bribery or other illegal means to secure an advantage in the application, examination, appeal or selection process.
- e. Has obtained screening information to which applicants are not entitled.
- f. Has failed to submit the application within the designated time limits.
- g. Was previously discharged from a position in state government.
- h. Has resigned in lieu of discharge for cause.
- i. Has been convicted of a crime that is shown to have a direct relationship to the duties of a job class or position.
- j. Is proven to be an unrehabilitated substance abuser who would be unable to perform the duties of the job class or who would constitute a threat to state property or to the safety of others.
- k. Is not a United States citizen and does not have a valid permit to work in the United States under regulations issued by the U.S. Immigration and Naturalization Service.
- l. Has filed a registration statement pursuant to the federal Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. §611 et seq.

Applicants disqualified or removed under this subrule shall be notified in writing by the director within five workdays following removal. Applicants may informally request that the director reconsider their disqualification or removal by submitting additional written evidence of their qualifications or reasons why they should not be removed ~~in accordance with rule 11—61.3(8A)~~. Formal appeal of disqualification or removal shall be in accordance with 11—subrule 61.2(4).

ITEM 4. Adopt the following new rule 11—54.8(8A):

11—54.8(8A) Nonmerit hiring procedure. An applicant for employment to a position that is not covered by the merit system shall disclose to the appointing authority, in writing, whether the applicant has filed a registration statement pursuant to the federal Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. §611 et seq.

ARC 4050C

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Notice of Intended Action

Proposing rule making related to procurement policies and procedures and providing an opportunity for public comment

The Department of Administrative Services hereby proposes to amend Chapter 103, “State Employee Driving Guidelines,” Chapter 117, “Procurement of Goods and Services of General Use,” and Chapter 118, “Purchasing Standards for Service Contracts,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 8A.104, 8A.311, 17A.3 and 17A.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 8A.104, 8A.311, 17A.7, 26.3 and 26.9.

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

Purpose and Summary

As a part of its five-year review of administrative rules, the Department of Administrative Services proposes these amendments to update procurement policies and procedures. The amendments fall under three administrative rules chapters and address the topics of state employee driving guidelines, procurement of goods and services of general use, and purchasing standards for service contracts.

Fiscal Impact

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

Jobs Impact

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

Waivers

The Department will not grant waivers under the provisions of these rules, other than as may be allowed under Chapter 9 of the Department's rules concerning waivers.

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 31, 2018. Comments should be directed to:

Tami Wiencek
Department of Administrative Services
Hoover State Office Building
1305 East Walnut Street
Des Moines, Iowa 50319-0114
Phone: 515.725.2017
Fax: 515.281.6140
Email: tami.wiencek@iowa.gov

Public Hearing

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

October 31, 2018
10 to 11 a.m.

Procurement Conference Room, A Level
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:

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

ITEM 1. Amend subrule 103.12(4) as follows:

103.12(4) If a state driver fails to attend or does not successfully complete the driver improvement course, the state driver ~~will~~ may be suspended from driving a state or private vehicle for state business until such time as a driver improvement course has been successfully completed.

ITEM 2. Amend subrule 103.16(1) as follows:

103.16(1) ~~All fuel~~ Fuel used in state-owned automobiles ~~shall~~ may be purchased at cost from the various state installations or garages such as but not limited to those of the state department of transportation, state board of regents, department of human services, department of corrections, or state motor pools throughout the state, ~~unless the state-owned sources for the purchase of fuel are not reasonably accessible.~~ Fuel may also be purchased at retail locations if a state fueling facility is not readily available. When possible, purchases shall be made using a fuel purchase card issued by the department.

ITEM 3. Adopt the following new definition of “Purchasing card” in rule ~~11—117.2(8A)~~:

“*Purchasing card*” means a statewide commercial credit card for electronic purchasing transactions by any agency, department, division, bureau, enterprise, unit or other state entity to facilitate the acquisition of goods, services and select travel expenses.

ITEM 4. Amend subrule 117.6(7) as follows:

117.6(7) *Targeted small businesses.* The department and agencies may buy from a targeted small business if a targeted small business is able to provide the good or service, pursuant to Iowa Code section 73.20. ~~When enterprise master agreements with targeted small businesses are available, purchases shall be made through these master agreements.~~

ITEM 5. Amend subrule 117.7(2) as follows:

117.7(2) *Delegation of procurement authority.* The department shall establish guidelines for implementation of procurement authority delegated to agencies. The department shall assist agencies in developing purchasing and purchasing card procedures consistent with central purchasing policy and procedures and recommended governmental procurement standards.

ITEM 6. Adopt the following new subrule 117.7(4):

117.7(4) *Purchasing card program.* The department shall establish and administer a purchasing card program available to any state agency, department, division, bureau, enterprise, unit or other state entity to facilitate the acquisition of goods, services and select travel expenses. The department shall establish program policies and procedures in accordance with state procurement and accounting policies, and any applicable statutory and regulatory authority. Except for state vehicle fuel purchase cards assigned by the department, the purchasing card shall be the only commercial credit card authorized by the department.

ITEM 7. Amend subrule 117.8(2) as follows:

117.8(2) *Targeted small business notification.* ~~Targeted small businesses shall be notified of all solicitations at least 48 hours prior to the general release of the notice of solicitation. The notice shall be distributed to the state of Iowa’s 48-hour procurement notice website for posting. State agencies, when using formal competition, shall provide a 48-hour notice of each procurement for goods to the targeted small business portal located at the Iowa economic development authority’s website in conformance with Iowa Code section 73.16(2).~~

ITEM 8. Amend subrule 117.8(4) as follows:

117.8(4) *Advertisement of construction procurement.* Construction solicitations shall be ~~advertised twice in a newspaper of general circulation published in the county within which the~~ when work is to be done ~~when~~ and the cost of the work exceeds \$100,000 or the adjusted competitive threshold established in Iowa Code section 314.1B. ~~Additional means of advertisement used shall be consistent with practices in the construction industry.~~ The department ~~may~~ shall publish an advertisement in an electronic format ~~as an additional method of soliciting bids~~ notice to bidders in accordance with Iowa Code section 26.3.

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

ITEM 9. Amend subrule 117.8(5) as follows:

117.8(5) *Vendor intent to participate.* In the event the department elects to conduct any procurement electronically or otherwise, it may require that vendors ~~prequalify or otherwise~~ indicate their intention to participate in the procurement process.

ITEM 10. Amend subrule 117.14(5) as follows:

117.14(5) *Establishment of agency internal procedures and controls.*

a. Agencies shall establish internal controls and procedures to initiate purchases, complete solicitations, make awards, approve purchases, and receive goods. The procedures shall address adequate public recordings of the purchases under the agency's authority consistent with law and rule. Internal controls and security procedures that are consistent with the requirements of the department and state auditor, including staff authority to initiate, execute, approve, and receive purchases, shall be in place for all phases of the procurement.

b. Agencies participating in the department's purchasing card program shall comply with the program policies and procedures in accordance with state procurement and accounting policies, and any applicable statutory and regulatory authority.

c. If an agency develops internal policies and procedures specific to its use of purchasing cards, the policies and procedures may be more, but not less, restrictive than the department's. In the event of a conflict between the agency and department policies and procedures, the department's shall take precedence.

ITEM 11. Amend subrule 117.15(3) as follows:

117.15(3) *Preference to targeted small businesses.* Agencies shall search the TSB directory on the ~~Web~~ Iowa economic development authority's website and may purchase a good or service directly from the TSB source if it is reasonable and cost-effective to do so the cost is equal to or less than the spending limit set forth in Iowa Code section 8A.311(10). Agencies shall comply with the TSB notification requirements in subrule 117.8(2).

ITEM 12. Amend rule 11—118.5(8A) as follows:

11—118.5(8A) Use of competitive selection. State agencies may procure non-master agreement services from private entities without competition when the estimated value does not exceed \$5,000. Agencies shall use competitive selection to acquire services from private entities when the estimated annual value of the service contract is equal to or greater than \$5,000 or when the estimated value of the multiyear service contract in the aggregate, including any renewals, is equal to or greater than \$15,000 unless there is adequate justification for a sole source or emergency procurement pursuant to rule 11—118.7(8A) or 11—118.8(8A) or another provision of law.

118.5(1) When the estimated annual value of the service contract is ~~equal to or~~ greater than \$50,000 or the estimated value of the multiyear service contract in the aggregate, including any renewals, exceeds \$150,000, a state agency shall use a formal competitive selection process to procure the service.

118.5(2) When the estimated annual value of the service contract is ~~equal to or~~ greater than \$5,000 but less than \$50,000 and the estimated value of the multiyear service contract in the aggregate, including any renewals, does not exceed \$150,000, a state agency, in its sole discretion, shall use either a formal or informal competitive selection process to engage a service provider.

118.5(3) The requirement to use competitive selection to select a service provider when the estimated annual value of the service contract is ~~equal to or~~ greater than \$5,000 or when the estimated value of the multiyear service contract in the aggregate, including renewals, is ~~equal to or~~ greater than \$15,000 applies even when the state agency purchases services from a private entity and designates the contract it enters into with the private entity as a 28E agreement.

ITEM 13. Amend subrule 118.7(1) as follows:

118.7(1) *When justified.* A sole source procurement shall be avoided unless clearly necessary and justifiable. A state agency may purchase services using a sole source procurement under the following circumstances:

a. to e. No change.

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

- f.* Applicable law requires, provides for, or permits use of a sole source procurement; or
g. The procurement is an information service that is systems software or an upgrade, or compatibility is the overriding consideration, or the procurement would prevent voidance or termination of a warranty, or the procurement would prevent default under a contract or other obligation.

ITEM 14. Amend subrule 118.7(2) as follows:

118.7(2) *Special procedures required for sole source procurements.*

a. When the annual value of the service contract exceeds \$5,000 or when the estimated value of the multiyear service contract in the aggregate, including renewals, is ~~equal to or~~ greater than \$15,000, the director of a state agency or designee shall sign the sole source contract or the amendment. In the absence of the director of a state agency or designee, the sole source contract shall be signed only by the DAS director or designee. Use of sole source procurement does not relieve a state agency from negotiating a fair and reasonable price and thoroughly documenting the procurement action.

b. When the annual value of the service contract exceeds \$5,000 or when the estimated value of the multiyear service contract in the aggregate, including renewals, is ~~equal to or~~ greater than \$15,000, a state agency shall be required to complete a sole source justification form. The director of the state agency or designee shall sign the sole source justification form. In the absence of the director of the state agency or designee, the sole source justification form shall be signed only by the DAS director or designee. The claim for the first payment on a contract requires a copy of the signed original contract, a copy of the precontract questionnaire, a copy of the sole source justification form, and an original invoice or original claimant signature.

c. The contract for the sole source procurement shall comply with 11—119.4(8,8A), uniform terms and conditions for service contracts, or 11—119.5(8,8A), special terms and conditions.

ITEM 15. Amend subrule 118.11(3) as follows:

118.11(3) A service contract should be competitively selected on a regular basis so that a state agency obtains the best value for the funds spent; avoids inefficiencies, waste or duplication; and may take advantage of new innovations, ideas and technology. A service contract, including all optional renewals, shall not exceed a term of six years; however, information technology service contracts entered into by the department or office of chief information officer may have a term length not to exceed ten years. Service contracts shall not exceed the term lengths set forth herein unless the state agency obtains a waiver of this provision pursuant to rule 11—118.16(8A).

ITEM 16. Amend subrule 118.12(1) as follows:

118.12(1) State agencies, ~~whether~~ when utilizing ~~informal or~~ formal competition, shall provide a 48-hour notice of each procurement for services to the targeted small business ~~Web page~~ portal located at the Iowa ~~department of economic development's~~ development authority's ~~Web site~~ website in conformance with Iowa Code section 73.16(2).

ARC 4043C

ECONOMIC DEVELOPMENT AUTHORITY[261]

Notice of Intended Action

Proposing rule making related to building block chemicals and providing an opportunity for public comment

The Economic Development Authority hereby proposes to amend Chapter 81, “Renewable Chemical Production Tax Credit Program,” Iowa Administrative Code.

Legal Authority for Rule Making

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

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 15.316.

Purpose and Summary

Under the renewable chemical production tax credit, Iowa Code section 15.316 provides that the term “building block chemical” includes a prescribed list of chemicals “or such additional molecules as may be included by the authority by rule after consultation with appropriate experts from Iowa state university, including but not limited to the Iowa state university center for biorenewable chemicals.” In accordance with Iowa Code section 15.316 and the procedures set forth in rule 261—81.8(15), the Authority proposes to add four chemicals to the definition of “building block chemical”: benzene, toluene, xylene, and ethylbenzene. Brent Shanks, Director for the Center for Biorenewable Chemicals (CBiRC) at Iowa State University, has recommended approval of all four chemicals, and the Authority concurs.

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 261—Chapter 199.

Public Comment

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

Jennifer Klein
Economic Development Authority
200 East Grand Avenue
Des Moines, Iowa 50309
Phone: 515.725.3124
Email: jennifer.klein@iowaeda.com

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

Amend rule **261—81.2(15)**, definition of “Building block chemical,” as follows:

“*Building block chemical*” means a molecule converted from biomass feedstock as a first product or a secondarily derived product that can be further refined into a higher-value chemical, material, or consumer product. “Building block chemical” includes but is not limited to high-purity glycerol, oleic acid, lauric acid, methanoic or formic acid, arabonic acid, erythronic acid, glyceric acid, glycolic acid, lactic acid, 3-hydroxypropionate, propionic acid, malonic acid, serine, succinic acid, fumaric acid, malic acid, aspartic acid, 3-hydroxybutyrolactone, acetoin, threonine, itaconic acid, furfural, levulinic acid, glutamic acid, xylonic acid, xylaric acid, xylitol, arabitol, citric acid, aconitic acid, 5-hydroxymethylfurfural, lysine, gluconic acid, glucaric acid, sorbitol, gallic acid, ferulic acid, nonfuel butanol, nonfuel ethanol, benzene, toluene, xylene, ethylbenzene, or such additional molecules as may be included by the authority following the procedure in rule 261—81.8(15).

ARC 4048C

EDUCATION DEPARTMENT[281]

Notice of Intended Action

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

The State Board of Education hereby proposes to amend Chapter 46, “Career and Technical Education,” 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, Iowa Code chapter 258.

Purpose and Summary

Items 1, 2, 3, 6, 8, and 12 are nonsubstantive, clarifying modifications to existing rules.

Item 4 adds policy language to a previously reserved rule. The language details the process to be followed for programs that do not meet program requirements established in this chapter.

Items 5, 7, 9, 10, and 11 implement the provisions of 2018 Iowa Acts, House File 648, passed by the Iowa Legislature and signed by Governor Reynolds during the 2018 Legislative Session. The items relate to the disbursement, monitoring, and allowable uses of state career and technical education funds.

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

An agencywide waiver provision is provided in 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 30, 2018. Comments should be directed to:

EDUCATION DEPARTMENT[281](cont'd)

Nicole Proesch
 Department of Education
 Grimes State Office Building, Second Floor
 Des Moines, Iowa 50319-0416
 Phone: 515.281.8661
 Email: nicole.proesch@iowa.gov

Public Hearing

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

October 30, 2018
 10 to 11 a.m.

State Board Room, Second Floor
 Grimes State Office Building
 East 14th Street and Grand Avenue
 Des Moines, Iowa

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

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the 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:

ITEM 1. Amend rule 281—46.1(258) as follows:

281—46.1(258) Federal Act accepted. The provisions of the Act of Congress known as the Carl D. Perkins Career and Technical Education Improvement Act of 2006, codified at 20 U.S.C. §2301 et seq., as amended, and subsequent reauthorizations, and the benefit of all funds appropriated under said Act and all other Acts pertaining to career and technical education, are accepted.

ITEM 2. Amend paragraph **46.6(1)“b,”** introductory paragraph, as follows:

b. Program report and self-study. A district shall create a program report and self-study for each offered program. The program report and self-study shall include ~~narrative on~~ the following minimum criteria:

ITEM 3. Amend subparagraph **46.6(3)“a”(1)** as follows:

(1) Conclusions drawn from annual program measurement. A district shall, for each program, annually review and evaluate program outcomes and student assessment data. The district shall describe document any conclusions drawn from the review and evaluation of program outcomes and student assessment data, and how those conclusions impact the future direction of the program. In addition to and as a result of this review, the district shall identify program strengths, in order of importance, and describe how these strengths will be maintained; perceived barriers to accomplishing the program's goal(s) and objective(s); and primary opportunities for improvement, in order of importance, and how these opportunities for improvement will be addressed. The district shall also review program enrollment and participation data by high school to determine if students from each participating high school have access to the program. The district shall describe how the district is ensuring access to the program for all students from each participating high school.

EDUCATION DEPARTMENT[281](cont'd)

ITEM 4. Adopt the following **new** rule 281—46.7(258):

281—46.7(258) Accreditation standards not met.

46.7(1) The following shall be conditions under which a district has failed to meet accreditation standards:

- a. A district fails to submit a program for approval under rule 281—46.6(258).
- b. A program fails to comply with the corrective action process outlined in paragraph 46.6(1) “d” or 46.6(3) “c.”

46.7(2) Any findings under subrule 46.7(1) shall be documented and reviewed as part of the comprehensive desk audit established under Iowa Code section 256.11(10) “a”(1).

a. A program identified under paragraph 46.7(1) “a” shall not be used by a district to meet minimum education program requirements for career and technical education specified under 281—paragraph 12.5(5) “i.” Such a program is ineligible to receive funds distributed under rule 281—46.9(258).

b. A program identified under paragraph 46.7(1) “b” shall not be used by a district to meet minimum education program requirements for career and technical education specified under 281—paragraph 12.5(5) “i.”

ITEM 5. Amend subrule 46.9(1), introductory paragraph, as follows:

46.9(1) An approved regional career and technical education planning partnership is eligible to receive ~~from state funds reimbursement for expenditures made during the fiscal year~~ school districts and community colleges participating in the regional career and technical education planning partnership for purposes allowed under subrule 46.10(6). ~~If federal and state funds are not sufficient to make the reimbursement to the extent provided in this rule, the director shall prorate the respective amounts available to the regional career and technical education planning partnerships entitled to reimbursement.~~

ITEM 6. Amend subrule 46.9(2) as follows:

46.9(2) All federal funds shall be spent pursuant to the state plan required under the federal Carl D. Perkins Career and Technical Education Improvement Act of 2006, codified at 20 U.S.C. §2301 et seq., as amended, and subsequent reauthorizations.

ITEM 7. Adopt the following **new** subrule 46.9(3):

46.9(3) Monitoring. An approved regional career and technical education planning partnership receiving funds under this rule shall comply with financial monitoring processes established by the department.

a. At the end of the state fiscal year, the fiscal agent of an approved regional career and technical education planning partnership shall submit to the department financial forms and other evidence documents required by the department to complete a comprehensive review of all transactions completed during the previous fiscal year which involve state and federal funds issued to the approved regional career and technical education planning partnership by the department. Documentation shall be submitted by the regional career and technical education planning partnership in a manner prescribed by the department.

b. Instances of transactions involving state and federal funds issued to an approved regional career and technical education planning partnership that are found to be noncompliant with state and federal regulations governing the use of such funds, including but not limited to subrule 46.10(6), shall be documented by the department.

(1) The fiscal agent of the approved regional career and technical education planning partnership shall be notified of any instances of noncompliance, and prepare, in consultation with the regional career and technical education planning partnership and department, a corrective action plan. The plan shall, at a minimum, detail the policies and procedures to be implemented by the fiscal agent to ensure that subsequent transactions involving state and federal funds issued to the regional career and technical education planning partnership are compliant with applicable state and federal regulations.

(2) The corrective action plan shall be approved by the regional career and technical education planning partnership and submitted to the department for approval through the annual approval process

EDUCATION DEPARTMENT[281](cont'd)

established under subrule 46.10(2). The department shall review and approve or deny approval of the corrective action plan. A regional career and technical education planning partnership required to create a corrective action plan must secure approval of the corrective action plan to be awarded continuing approval. A regional planning partnership that fails to secure continuing approval shall be subject to the requirements of paragraph 46.10(2)“c.”

ITEM 8. Amend paragraph **46.10(2)“b”** as follows:

b. Continuing approval. By June 30, 2018, and for each subsequent year, each partnership shall have adopted a multiyear plan meeting the requirements of subrule 46.10(5). The multiyear plan and documents required under paragraph 46.10(2)“a” shall be reviewed and, as necessary, revised on an annual basis by the partnership and submitted to the department. To maintain approval, the partnership shall maintain evidence that the duties assigned to the partnership under subrule 46.10(4) are performed on a continuing basis. In awarding continuing approval, the department shall consider documented findings from the financial monitoring process established under subrule 46.9(3).

ITEM 9. Amend paragraph **46.10(4)“b”** as follows:

b. Collect and review all relevant plans required by the federal Carl D. Perkins Career and Technical Education Improvement Act of 2006, codified at 20 U.S.C. §2301 et seq., as amended, and subsequent reauthorizations; career and academic plans required under 281—Chapter 49; and regional labor market, socioeconomic, and demographic information.

ITEM 10. Amend subrule 46.10(6), introductory paragraph, as follows:

46.10(6) Secondary career and technical education funds. An approved regional career and technical education partnership may use funds received from state and federal sources on behalf of school districts and community colleges participating in the regional career and technical education planning partnership for the following:

ITEM 11. Amend paragraph **46.10(6)“b”** as follows:

b. To offer regional career and technical education professional development opportunities; coordinate and maintain, and support a career guidance system pursuant to 281—Chapter 49, and related work-based learning opportunities for students; and purchase career and technical education equipment on behalf of school districts and community colleges participating in the regional career and technical education planning partnership and curricular resources to include standard classroom consumable supplies directly related to and necessary for the course curriculum, other than basic consumable supplies that will be made into products to be sold or used personally by students, teachers, and other persons. All expenditures on allowable uses specified under this paragraph must conform to the requirements of the federal Carl D. Perkins Career and Technical Education Improvement Act of 2006, codified at 20 U.S.C. §2301 et seq., as amended, and subsequent reauthorizations.

ITEM 12. Amend subrule 46.11(4) as follows:

46.11(4) Compliance. Districts and community colleges shall maintain compliance with the federal Carl D. Perkins Career and Technical Education Improvement Act of 2006, 20 U.S.C. §2301 et seq., as amended, and subsequent reauthorizations, in implementing career academies.

ARC 4049C

EDUCATION DEPARTMENT[281]

Notice of Intended Action

Proposing rule making related to career information systems and providing an opportunity for public comment

The State Board of Education hereby proposes to amend Chapter 49, “Individual Career and Academic Plan,” Iowa Administrative Code.

EDUCATION DEPARTMENT[281](cont'd)

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, Iowa Code section 279.61.

Purpose and Summary

Chapter 49 establishes the minimum components for career information systems used by districts to support individual career and academic planning activities for students in grades 8 through 12. The Department maintains a list of career information systems which meet the criteria established in Chapter 49. This proposed amendment adds an additional category of “supplemental” career information systems. Career information systems that do not satisfy all criteria for career information systems may be placed on this list, and districts may use career information systems on this list to satisfy identified components of the career and academic planning process.

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

An agencywide waiver provision is provided in 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 30, 2018. Comments should be directed to:

Nicole Proesch
Department of Education
Grimes State Office Building, Second Floor
Des Moines, Iowa 50319-0416
Phone: 515.281.8661
Fax: 515.242.5988
Email: nicole.proesch@iowa.gov

Public Hearing

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

October 30, 2018
9 to 10 a.m.

State Board Room, Second Floor
Grimes State Office Building
East 14th Street and Grand Avenue
Des Moines, Iowa

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

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs by calling 515.281.5295.

EDUCATION DEPARTMENT[281](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 action is proposed:

Adopt the following **new** subrule 49.6(4):

49.6(4) Supplemental systems. The department shall maintain a list of supplemental systems which districts may use to satisfy components of rule 281—49.3(279).

a. The department shall establish a process for the review of supplemental systems. The review shall, at a minimum, identify the components of rule 281—49.3(279) and paragraphs 49.6(3) “b,” “c,” and “d” which are satisfied through the supplemental system. All supplemental systems shall comply with paragraphs 49.6(3) “f” and “g.”

b. A district which chooses to utilize a supplemental system shall specify which components of rule 281—49.3(279) are satisfied through the use of the supplemental system in the district plan required under rule 281—49.5(279). A district which chooses to utilize a supplemental tool must continue to utilize and make available to students an approved system.

ARC 4044C**HUMAN SERVICES DEPARTMENT[441]****Amended Notice of Intended Action****Providing for a public hearing on rule making related to mental health and disability services regions**

The Notice of Intended Action published in the Iowa Administrative Bulletin on August 15, 2018, as **ARC 3942C** proposes to amend Chapter 25, “Disability Services Management,” Iowa Administrative Code. In order to receive oral comments concerning **ARC 3942C**, the Human Services Department hereby gives notice that a public hearing will be held as follows:

November 14, 2018
2:30 to 4:30 p.m.

Polk County River Place
Rooms 1 and 1A
2309 Euclid Avenue
Des Moines, Iowa

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

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

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 225C.6 and 2018 Iowa Acts, House File 2456.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 225C.6 and 2018 Iowa Acts, House File 2456.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Purpose and Summary

The Department received requests from multiple respondents representing persons or entities of more than 25 persons during the public comment period requesting a public hearing. This Amended Notice of Intended Action provides a public hearing to receive oral and written comment on the originally submitted Notice, the details of which are described below.

The amendments proposed in **ARC 3942C** implement 2018 Iowa Acts, House File 2456, which requires the Mental Health and Disability Services regions to initiate new core services, expand the core services the regions currently provide, meet new access standards for these services, and include the service changes in their service, budget planning, and reporting by a specified date. The regions must also collaborate to ensure that core services are available in minimum numbers strategically located throughout the state.

The amendments also establish new and revised service standards for providers of comprehensive crisis services, subacute mental health services, and intensive mental health services.

Finally, the amendments provide a broader and more accessible statewide array of crisis and intensive mental health services to individuals with serious mental illness and other individuals experiencing a mental health or substance use crisis.

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 3942C**.

Review by Administrative Rules Review Committee

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

ARC 4051C

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

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

The Board of Podiatry hereby proposes to amend Chapter 222, "Continuing Education for Podiatrists," Chapter 223, "Practice of Podiatry," and Chapter 224, "Discipline for Podiatrists, Orthotists, Prosthetists, and Pedorthists," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in 2018 Iowa Acts, House File 2377, sections 21 and 22.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 149 and 2018 Iowa Acts, House File 2377, sections 21 and 22.

Purpose and Summary

2018 Iowa Acts, House File 2377, section 4, created new Iowa Code section 124.551A requiring prescribing practitioners to check the prescription monitoring program database prior to issuing an opioid prescription. 2018 Iowa Acts, House File 2377, section 21, created new Iowa Code section

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

147.162 requiring the Board to adopt rules that establish penalties for practitioners who overprescribe opioids. 2018 Iowa Acts, House File 2377, section 22, created new Iowa Code section 272C.2C requiring the Board to adopt rules requiring continuing education for opioid prescribers as a condition of license renewal. These proposed amendments mandate that opioid prescribers check the prescription monitoring program database prior to prescribing opioids, require continuing education regarding opioid prescriptions, and allow for Board discipline for practitioners who overprescribe opioids.

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

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.

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 30, 2018. Comments should be directed to:

Tony Alden
Professional Licensure Division
Iowa Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.281.4401
Fax: 515.281.3121
Email: tony.alden@idph.iowa.gov

Public Hearing

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

October 30, 2018
8 to 9 a.m.

Fifth Floor Conference Room 526
Lucas 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 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).

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

The following rule-making actions are proposed:

ITEM 1. Reletter paragraphs **222.3(2)“d”** to “g” as **222.3(2)“e”** to “h.”

ITEM 2. Adopt the following **new** paragraph **222.3(2)“d”**:

d. A licensee who has prescribed opioids to a patient during a renewal cycle shall have obtained a minimum of 1 hour of continuing education regarding the United States Centers for Disease Control and Prevention guideline for prescribing opioids for chronic pain, including recommendations on limitations on dosages and the length of prescriptions, risk factors for abuse, and nonopioid and nonpharmacologic therapy options.

ITEM 3. Adopt the following **new** rule 645—223.5(149):

645—223.5(149) Prescribing opioids. A podiatrist shall review a patient’s information contained in the prescription monitoring program database for each opioid prescription prior to prescribing, unless the patient is receiving inpatient hospice care or long-term residential facility care.

ITEM 4. Adopt the following **new** subrule 224.2(32):

224.2(32) Prescribing opioids in dosage amounts exceeding what would be prescribed by a reasonably prudent prescribing practitioner engaged in the same practice.

ARC 4042C

REVENUE DEPARTMENT[701]

Notice of Intended Action

Proposing rule making related to use of assessment/sales ratio study and providing an opportunity for public comment

The Revenue Department hereby proposes to amend Chapter 71, “Assessment Practices and Equalization,” Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 441.47.

Purpose and Summary

This proposed rule making expands the tools utilized by the Department to supplement the assessment/sales ratio study.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

REVENUE DEPARTMENT[701](cont'd)

Public Comment

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

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend subrule 71.12(3) as follows:

71.12(3) Multiresidential real estate.

a. Use of assessment/sales ratio study.

(1) Basic data shall be that set forth in rule 701—71.10(421), refined by eliminating any sales determined to be abnormal or by adjusting same to eliminate the effects of factors that resulted in the determination that the sales were abnormal. The basic data used shall be the assessment/sales ratio study conducted for sales taking place during the calendar year immediately preceding the year in which the equalization order is issued. The department of revenue may also supplement the assessment/sales ratio study with other data, including appraisals made by department appraisal personnel for the year immediately preceding the year in which the equalization order is issued or by using modeled appraisal techniques. The assessment/sales ratio study including relevant appraisals, if any, shall be used to determine the aggregate actual valuation of multiresidential real estate in each assessing jurisdiction. The department may consider sales and appraisal data for prior years if it is determined the use of sales and appraisal data for the year immediately preceding the year in which the equalization order is issued is insufficient to determine market value. If such sales and appraisal data for prior years is are used, consideration shall be given for any subsequent changes in either assessed value or market value.

(2) Assessors shall provide any known facts or circumstances regarding reported sales transactions and department appraisals that would indicate abnormal or unusual conditions or reporting discrepancies that would necessitate exclusion or adjustment of sales or appraisals from the determination of aggregate actual values. Assessors shall provide those facts within 45 days of receipt from the department of information concerning sales and appraisal data proposed for assessment/sales ratio and equalization purposes.

REVENUE DEPARTMENT[701](cont'd)

b. Use of other relevant data. The department of revenue may also consider other relevant data, including field investigations conducted by representatives of the department and statistical measures, to determine the level of assessment of multiresidential real estate.

c. No change.

ITEM 2. Amend subrule 71.12(4) as follows:

71.12(4) Commercial real estate.

a. Use of assessment/sales ratio study.

(1) Basic data shall be that set forth in rule 701—71.10(421), refined by eliminating any sales determined to be abnormal or by adjusting same to eliminate the effects of factors that resulted in the determination that the sales were abnormal. The basic data used shall be the assessment/sales ratio study conducted for sales taking place during the calendar year immediately preceding the year in which the equalization order is issued. The department of revenue may also supplement the assessment/sales ratio study with appraisals made by department appraisal personnel for the year immediately preceding the year in which the equalization order is issued. The assessment/sales ratio study including relevant appraisals, if any, shall be used to determine the aggregate actual valuation of commercial real estate in each assessing jurisdiction. The department may consider sales and appraisal data for prior years if it is determined the use of sales and appraisal data for the year immediately preceding the year in which the equalization order is issued is insufficient to determine market value. If such sales and appraisal data for prior years is are used, consideration shall be given for any subsequent changes in either assessed value or market value. Properties receiving a dual classification with the primary use being commercial shall be included.

(2) Assessors shall provide any known facts or circumstances regarding reported sales transactions and department appraisals that would indicate abnormal or unusual conditions or reporting discrepancies that would necessitate exclusion or adjustment of sales or appraisals from the determination of aggregate actual values. Assessors shall provide those facts within 45 days of receipt from the department of information concerning sales and appraisal data proposed for assessment/sales ratio and equalization purposes.

b. Use of other relevant data. The department of revenue may also consider other relevant data and statistical measures, including field investigations conducted by representatives of the department, to determine the level of assessment of commercial real estate. The diverse nature of commercial real estate precludes the use of a countywide or citywide income capitalization study.

c. No change.

ARC 4046C

UTILITIES DIVISION[199]

Notice of Intended Action

Proposing rule making related to rate cases, tariffs, and rate regulation and providing an opportunity for public comment

The Utilities Board hereby proposes to amend Chapter 26, “Rate Cases, Tariffs, and Rate Regulation Election Practice and Procedure,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 474.5, 476.2 and 476.33.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 476.2, 476.6 and 476.33.

UTILITIES DIVISION[199](cont'd)

Purpose and Summary

The purpose of this proposed rule making is to update and revise the Board's rules establishing procedures for filing applications for rate increases by rate-regulated utilities. The changes include updating of language regarding electric cooperatives and municipal utilities, implementation of requirements for utilities using a future test year, updating of the filing and notice requirements required to comply with Iowa Code section 476.6 and adding requirements for general rate case filings by small utility companies. The Board issued an order on July 31, 2017, requesting stakeholder comment about amendments to Chapter 26. Consumer Advocate, MidAmerican Energy Company, Interstate Power and Light Company, Iowa American Water Company, Black Hills Energy, the Iowa Association of Electric Cooperatives, and the Iowa Association of Municipal Utilities filed comments. The Board reviewed the stakeholder comments and the recent legislation (2018 Iowa Acts, Senate File 2311) providing for application based upon a future test year and proposes the following amendments to the rules in Chapter 26.

The Board issued an order on September 21, 2018, commencing this rule making. The order is available on the Board's electronic filing system, efs.iowa.gov, under Docket No. RMU-2016-0027.

Fiscal Impact

After analysis and review of this rule making, the Board tentatively concludes that the amendments will have no effect on the expenditure of public moneys within the state of Iowa.

Jobs Impact

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

Waivers

Chapter-specific waiver provisions are unnecessary since any person may apply for waiver of any Board rule under rule 199—1.3(17A,474,476).

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, 2018. Comments should be directed to:

Iowa Utilities Board
Electronic Filing System (EFS) at 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 18, 2018
10:30 a.m. to 12:30 p.m.

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—26.1(17A,476) as follows:

199—26.1(17A,476) Scope and applicability.

26.1(1) This chapter contains utilities board procedural rules applicable only to rate-regulated utility rate cases, rate case tariff filings, and rate regulation election by electric cooperatives. The board's general contested case procedural rules ~~that also apply to these types of proceedings~~ are contained in 199—Chapter 7 also apply to these types of proceedings.

26.1(2) ~~The purpose of these rules is to facilitate the transaction of business before the board and to promote the just resolution of controversies. Consistent with this purpose, the application of any of these rules, unless otherwise required by law, may be waived by the board pursuant to 199—1.3(17A,474,476). The filing and notice requirements in this chapter do not apply to municipal utilities exempted from rate regulation pursuant to Iowa Code section 476.1(4) and municipal natural gas and electric utilities subject to regulation pursuant to Iowa Code section 476.1B.~~

26.1(3) The filing and notice provisions in this chapter do not apply to electric utilities with fewer than 10,000 customers or electric cooperatives or associations subject to the provisions of Iowa Code section 476.1A that have not elected to be rate regulated by the board.

26.1(4) The filing and notice provisions in this chapter do not apply to natural gas utilities with fewer than 2,000 customers pursuant to Iowa Code section 476.1C, unless a valid petition is filed with the board pursuant to Iowa Code section 476.1C(1) "d."

ITEM 2. Rescind rule 199—26.2(17A,476) and adopt the following **new** rule in lieu thereof:

199—26.2(17A,476) Definitions. Terms not otherwise defined in these rules shall be understood to have their usual meaning.

"*Bridge period*" shall mean the period between the last available calendar year and the beginning of the proposed future test year.

"*Charges*" shall mean amounts billed to customers for a nonrecurring service or commodity rendered or offered by the public utility.

"*Commodity*" or "*commodities*" shall mean water, sanitary sewage, storm water drainage, electricity, or natural gas.

"*Effective date*" shall mean the date, approved by the board, on which the utility may begin charging the new rate or charge.

"*Future test year,*" in determining just and reasonable rates, means any 12-month period beginning no later than the date on which a proposed rate change is expected to take effect.

"*Historical test year*" means the calendar year preceding the year in which the application for a general rate increase is filed unless the board approves an alternative test year time period prior to a utility's rate case filing.

"*Rate amounts*" shall mean the total bill rendered to a customer pursuant to a given rate schedule.

"*Rates*" shall mean amounts per unit billed to customers for a recurring service or commodity rendered or offered by the utility.

ITEM 3. Amend rule 199—26.3(17A,476) as follows:

199—26.3(17A,476) Proposal of settlements.

UTILITIES DIVISION[199](cont'd)

26.3(1) In proposed settlements which resolve all revenue requirement issues in a rate case proceeding, parties to the settlement shall jointly file the revenue requirement calculations reflecting the adjustments proposed to be settled.

26.3(2) In proposed settlements which resolve some revenue requirement issues in a rate case proceeding and retain some issues for litigation, each party to the settlement who has previously filed a complete revenue requirement calculation shall file its revenue requirement calculation reflecting the adjustments proposed to be settled and any remaining issues to be litigated.

26.3(3) In proposed settlements which produce an agreed-upon revenue requirement as a mutually acceptable outcome to the proceeding without an agreement on each revenue requirement issue, parties to the settlement shall jointly file ~~schedules~~ as exhibits to the settlement supporting documentation reflecting the specific adjustments for which the parties reached agreement.

26.3(4) For those issues included in the proposed settlement which were not specifically resolved, the ~~schedules~~ supporting documentation should identify the range between the positions of the parties.

ITEM 4. Amend rule 199—26.4(476) as follows:

199—26.4(476) Rate case expense.

26.4(1) A utility making an application pursuant to Iowa Code section 476.6 shall file, within one week of docketing of the rate case, the estimated or, if available, actual expenses incurred or to be incurred by the utility in litigating the rate case. Except for expenses incurred in preparation of the rate filing and notification of customers, the expenses shall be limited to expenses incurred in the time period from the date the initial application is filed through the utility's ~~reply brief~~ briefs unless the time period is extended by the board. Each expense shall be designated as either estimated or actual.

26.4(2) Estimated or, if available, actual expenses shall identify specifically:

a. Printing costs for the following:

- (1) Rate notification letters.
- (2) Initial filing.
- (3) Testimony.
- (4) Briefs.
- (5) Other (specify).

b. Postage costs.

c. Outside counsel cost:

- (1) Number of attorneys engaged as outside counsel.
- (2) Hours per attorney engaged as outside counsel.
- (3) Cost/hour and support for the reasonableness of this rate.

d. Outside expert witness/consultant:

- (1) Number of outside consultants employed.
- (2) Hours per consultant employed.
- (3) Cost/hour per consultant employed and support for the reasonableness of this rate.
- (4) Scope of work and reason consultant was needed.

e. Expenses stated by individual for both outside consultants and utility personnel:

- (1) Travel.
- (2) Hotel.
- (3) Meals.
- (4) Other (specify).

f. Other (specify).

26.4(3) Rate case expense shall not include recovery for expenses that are otherwise included in test year expenses, including salaries for staff preparing filing, staff attorneys, and staff witnesses. Rate case expense shall include only expenses not covered by test year expenses for the period stated in subrule 26.4(1).

26.4(4) Total allowable rate case expense shall include expenses incurred by board staff and the consumer advocate for the time period stated in subrule 26.4(1). The rate case expense to be filed by the utility shall not include these expenses.

UTILITIES DIVISION[199](cont'd)

26.4(5) The reasonableness of the estimates shall be litigated during the proceeding. At the request of the consumer advocate or the utilities board, ~~company~~ the utility shall make witnesses available on any item included in the estimated rate case expense for cross-examination during the hearing.

26.4(6) Actual utility expenses shall be filed in the same format and detail as estimated expenses and shall be filed within two weeks after filing the final brief. All material variances shall be fully supported and justified.

26.4(7) The board may schedule any additional hearings to litigate the reasonableness of the final expenses.

26.4(8) The recovery mechanism for rate case expense shall be determined by the board. Recovery may be through base rates, by means of a rider, or otherwise. The applicable recovery period will be determined in the rate proceeding. Recovery through a rider will end once the expense is fully recovered.

~~This rule is intended to implement Iowa Code section 476.6(8).~~

ITEM 5. Amend rule 199—26.5(476) as follows:

199—26.5(476) Applications and petitions.

26.5(1) Customer notification procedures.

a. Definitions. Terms not otherwise defined in these rules shall be understood to have their usual meaning.

(1) ~~“Rates” shall mean amounts per unit billed to customers for a recurring service or commodity rendered or offered by the public utility. “Rate amounts” shall mean the total bill rendered to a customer pursuant to a given rate schedule.~~

(2) ~~“Charges” shall mean amounts billed to customers for a nonrecurring service or commodity rendered or offered by the public utility.~~

(3) ~~“Commodity” or “commodities” shall mean water, electricity, or natural gas.~~

(4) ~~“Effective date” shall mean the date on which the first customer begins receiving the service or commodity under the new rate or charge.~~

b. a. Notification of rate increase to customers.

(1) ~~All rate-regulated public utilities, except those exempted from rate regulation by Iowa Code section 476.1 which propose to increase rates or charges, shall mail or deliver a written notice pursuant to paragraph “e” or “d” provide written notice of the proposed increase to all customers in all affected rate classifications.~~

1. The written notice shall be mailed or delivered before the application for increase is filed, but not more than 62 days prior to the filing the application with the board. Any public utility exempt from rate regulation by Iowa Code section 476.1, which proposes to increase rates or charges, shall mail or deliver, not less than 30 days prior to the proposed effective date, a written notice pursuant to paragraph “e” or “d” of the rate or charge increase to all customers in all affected rate classifications.

2. A rate-regulated utility shall file its proposed notice, which shall be subject to approval by the board, not less than 45 days before the utility proposes to mail the notice to its customers.

Provided, however, that if a telephone utility is proposing to increase rates for only interexchange services, excluding EAS and intrastate access services, the utility shall cause the notice of proposed increase to be published, in at least one newspaper of general circulation in each county where such increased rates are proposed to be effective. The notice shall be published at least twice in such newspaper no more than 62 days prior to the time the application for the increase is filed with the board.

(2) The notice requirements in this paragraph are not applicable to rate increases for telecommunications services. Rate notice requirements for intrastate access service rates are subject to the requirements of 199—22.14(476).

c. b. Standardized notice Requirements for rate increase notices.

(1) ~~Rate-regulated utilities. Any rate-regulated utility company may use the following forms for notification of its customers without seeking prior board approval. If the utility is asking for a general and interim increase, it should use Form A below. If the utility is asking for only a general increase, it should use Form B below.~~

Form A

UTILITIES DIVISION[199](cont'd)

Dear Customer:

(Company Name) (We) are asking the Iowa Utilities Board for an increase in (type of service) utility (rates) (and) (charges) with a proposed effective date of (date).

The proposed increase in annual revenues will be approximately \$(number), or (number)%.

Although the effect of the proposed increase on your bill may vary depending upon the type and extent of usage, the (average monthly increase per customer for the primary customer classes) (and) (actual increase in nonrecurring charges per customer) (is) (are):

(Charges)	Current		Proposed		Proposed	
(Customer	(Charge)		(Charge)		(Charge)	
Class)	(Monthly	+	(Monthly	=	(Monthly	Percentage
	Rate)		Increase		Rate)	Increase

This proposed increase in (rates) (and) (charges) may be docketed by the Board, which suspends the effective date of the proposed (rates) (and) (charges). If the proposed (rates) (and) (charges) are suspended, we are asking the Board for temporary authority to place into effect the following interim increase (collected subject to refund), to be effective (date). The Board may set interim (rates) (and) (charges) other than these:

Proposed Interim Rate Increase

(Charges)	Current		Proposed		Proposed	
(Customer	(Charge)		(Charge)		(Charge)	
Class)	(Monthly	+	(Monthly	=	(Monthly	Percentage
	Rate)		Increase		Rate)	Increase

After a thorough investigation, the Board will order final (rates) (and) (charges) which may be different from those proposed, and determine when the (rates) (and) (charges) will become effective. If the final (rates) (and) (charges) are lower than the interim (rates) (and) (charges), the difference between the final and interim (rates) (and) (charges) will be refunded with interest.

You have the right to file a written objection to this proposed increase with the Board and to request a public hearing. The address of the Board is: Iowa Utilities Board, 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319-0069. The Board should be provided with any facts that would assist it in determining the justness and reasonableness of this requested increase. This information will be made available to the Consumer Advocate, who represents the public interest in rate cases before the Board.

A written explanation of all current and proposed rate schedules is available without charge from your local business office. If you have any questions, please contact your local business office.

Form B

Dear Customer:

(Company Name) (We) are asking the Iowa Utilities Board for an increase in (type of service) utility (rates) (and) (charges) with a proposed effective date of (date).

The proposed increase in annual revenues will be approximately \$(number), or (number)%.

Although the effect of the proposed increase on your bill may vary depending upon the type and extent of usage, the (average monthly increase per customer for the primary customer classes) (and) (actual increase in nonrecurring charges per customer) (is) (are):

(Charges)	Current		Proposed		Proposed	
(Customer	(Charge)		(Charge)		(Charge)	
Class)	(Monthly	+	(Monthly	=	(Monthly	Percentage
	Rate)		Increase		Rate)	Increase

This proposed increase in (rates) (and) (charges) may be docketed by the Board, which suspends the effective date of the proposed (rates) (and) (charges). After a thorough investigation, the Board will order final (rates) (and) (charges) which may be different from those we requested. These final (rates) (and) (charges) will become effective at a date set by the Board.

UTILITIES DIVISION[199](cont'd)

You have the right to file a written objection to this proposed increase with the Board and to request a public hearing. The address of the Board is: Iowa Utilities Board, 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319-0069. The Board should be provided with any facts that would assist it in determining the justness and reasonableness of this requested increase. This information will be available to the Consumer Advocate, who represents the public interest in rate cases before the Board.

A written explanation of all existing and proposed rate schedules is available without charge from your local business office. If you have any questions, please contact your local business office.

(2) Utilities not subject to rate regulation. A utility not subject to rate regulation may use the following form for notification of its customers without seeking prior board approval.

Dear Customer:

On (date), (responsible party) approved an increase in (rates) (and) (charges) affecting prices for (type of service) that you receive. The increase will apply to your usage beginning on (date).

The increase in annual revenues will be approximately \$(number), or (number)%.

Although the effect of the increase on your bill may vary depending upon the type and extent of usage, the (average monthly increase per customer for the primary customer classes) (and) (actual increase in nonrecurring charges per customer) (is) (are):

	Current				(Charge)	
	(Charge)				(Monthly	Percentage
(Charges)	(Monthly	=	Proposed	=	Rate)	Increase
(Customer Class)	Rate)		Increase		Rate)	Increase

A written explanation of all current rate schedules is available without charge from our local business office. If you have any questions, please contact our business office.

(3) General requirements for a form notice. The standardized notice provided under this subsection shall be of a type size and of a quality which is easily legible. A copy of the notice with dates, cost figures, and cost percentages shall be filed with the board at the time of customer notification.

Any utility offering services or systems involving detailed rate schedules must include in its notification to customers a paragraph specifically noting the services or systems for which any increase is proposed and advising customers to contact the utility's local business office for further explanation of the increase.

Any "average" used in the standard form shall be a median average.

(1) Rate-regulated utilities are subject to the notice requirements contained in this paragraph. Examples of approved notices can be found on the board's website at iub.iowa.gov. At a minimum, customer notification of proposed increases in rates must include the following information:

1. If the utility is proposing to place rates in effect on a temporary basis, an explanation of the interim rate process applicable to the proceeding and, with respect to such proposed interim rates, all of the information that this subrule requires a utility to submit concerning final rates.

2. A description of the proposed increase in rates or charges.

3. The proposed effective date of the proposed increase in rates and charges, stating that ultimately the board will determine when any changes in rates or charges become effective.

4. The proposed overall increase in annual revenues stated in dollars and as a percentage for each applicable customer class. The overall increase shall include the utility's estimated rate case expenses as a separate line item.

5. A table that includes the utility's primary customer classes and for each class shows the current average monthly bill, the proposed average monthly bill increase, the proposed average monthly bill, and the percent increase in average monthly bill. The utility shall highlight on the notice the rates that are proposed for a customer receiving the notice.

6. If a utility proposes significant changes to nonrecurring charges, the notice should include a table that contains the following for each nonrecurring charge: the amount currently charged, the proposed charge, and the percent increase.

UTILITIES DIVISION[199](cont'd)

7. A statement indicating that the impact of the proposed new rates on amounts billed to customers may vary depending on the type and extent of usage.

8. A statement indicating that a written explanation of all current and proposed rate schedules is available without charge from the utility's local business office.

9. A statement indicating how a customer may contact the utility with any questions concerning the proposed increase in rates or charges.

10. A statement indicating that customers have the right to file written objections to the proposed increase with the board and to request a public hearing to determine whether the rate increase should be allowed. The statement must include the board's mailing address and email address and the board's electronic filing system website address. The statement must also direct customers to provide the board with any facts that would assist the board in determining the justness and reasonableness of the requested increase, and indicate that the written objection will be made available to the consumer advocate, who represents the public interest in rate cases before the board.

11. The date, time, and place of any applicable consumer comment meetings.

12. A statement indicating that after a thorough investigation, the board will make a determination on final rates and charges which may be different from those that the utility proposes, and that if final rates or charges are lower than interim rates or charges, the utility shall refund the difference with interest to customers.

(2) Any utility offering services or systems involving detailed rate schedules shall include a paragraph in its notification to customers specifically noting the services or systems for which any increase is proposed and advising customers to contact the utility for further explanation of the increase.

(3) The proposed notice may contain blank spaces for dates, cost figures, and cost percentages; however, the board may request that the utility provide figures to assist the board during its review of the proposed notice.

(4) A copy of the notice with the final dates, cost figures, and cost percentages must be filed with the board in the rate proceeding docket at the time of customer notification.

(5) The form of the notice, once approved by the board, may not be altered except to include dates, cost figures, and cost percentages reflecting the latest updates. The type size and quality shall be easily legible.

d. c. Other customer notification forms Deficiencies. Within 30 days of the rate-regulated utility's filing of its proposed customer notice, the board shall issue an order either approving the notice or identifying any deficiencies and setting forth the corrections and additional information necessary for the notice to comply with Iowa Code chapter 476 and with board rules. A notice found to be deficient under this rule shall not constitute adequate notice under Iowa Code section 476.6. If the board fails to issue an order within 30 days of filing, the proposed notice shall be deemed approved without change.

(1) Prior approval. Any public utility, as defined in Iowa Code section 476.1, which proposes to increase rates or charges and is not in substantial compliance with the form prescribed in 26.5(1) "e" above, shall submit to the board not less than 30 days before providing notification to its customers in accordance with 26.5(1) "b," ten copies of such proposed notice for approval. The board, for good cause shown, may permit a shorter period for approval of the proposed notice.

(2) Form. The proposed notice as submitted to the board pursuant to 26.5(1) "d"(1) may contain blank spaces for dates, cost figures and cost percentages; however, a copy of the approved notice with dates, cost figures, and cost percentages shall be filed with the board at the time of the customer notification. The form of the notice, as approved by the board, may not be altered in the final form except to include dates, cost figures, and cost percentages reflecting the latest updates. The notice shall be of a type size and of a quality which is easily legible and shall be of the same format as that which was approved by the board.

(3) Required content of notification. The notice submitted for approval pursuant to 26.5(1) "d"(1) shall include, at a minimum, all of the information contained in the standard notice of 26.5(1) "e."

(4) Notice of deficiencies. Within 30 days of the proposed notice's filing, the utility shall be notified of either the approval of the notice or of any deficiencies in the proposed notice. In the event deficiencies are found to exist in the proposed notice, the board will describe the corrective measures necessary to

UTILITIES DIVISION[199](cont'd)

~~bring the notice into compliance with Iowa Code chapter 476 and board rules. A notice found to be deficient under this rule shall not constitute adequate notice under Iowa Code section 476.6.~~

~~(5) Fuel adjustment clause. Nothing in this subsection shall be taken to prohibit a public utility from establishing a sliding scale of rates and charges or from making provision for the automatic adjustment of rates and charges for public utility service, provided that a schedule showing such sliding scale or automatic adjustment of rates and charges is first filed with the board. Such adjustment factors that result from the sliding scale shall be printed on the customer's bill.~~

~~*e. d. Automatic adjustment clauses* Reserved. The notice requirements in this chapter do not apply to rates filed pursuant to an automatic adjustment mechanism approved by the board. Nothing in this paragraph shall be construed to prohibit a public utility from making provision for the automatic adjustment of rates and charges for public utility service, provided that a schedule showing the automatic adjustment of rates and charges shall first be filed with and approved by the board.~~

~~*f. e. Delivery of notification notice.*~~

~~(1) The notice, as it appears in 26.5(1)“e” or as approved by the board in accordance with 26.5(1)“d,” shall be mailed or delivered to all affected customers pursuant to the timing requirements of 26.5(1)“b.”~~

~~(2) Rate regulated utilities. Notice of all proposed increases may be mailed to all affected customers. The notice may be mailed with a regularly scheduled mailing of the utility. Notice, except for proposed nonrecurring service charge increases, shall be conspicuously marked, “Notice of proposed rate increase,” on the notice itself. If a separate mailing is utilized by a utility for customer notification except for proposed nonrecurring service charge increases, the outside of the mailing shall also be conspicuously marked, “Notice of proposed rate increase.”~~

~~(3) Utilities not subject to rate regulation. Notice of all increases may be mailed to all affected customers. The notice may be mailed with a regularly scheduled mailing of the utility. Notice of all increases, except nonrecurring service charge increases, shall be conspicuously marked, “Notice of rate increase,” on the notice itself. If a separate mailing is utilized by a utility for customer notification of an increase, except a nonrecurring service charge increase, the outside of the mailing shall also be conspicuously marked, “Notice of rate increase.” This subparagraph does not apply to municipal utilities.~~

~~(4) Failure of the postal service to deliver the notice to any customers shall not invalidate or delay a proposed rate increase proceeding.~~

~~(5) After the date the first notice is mailed or delivered to any affected customer and until such rates are resolved in proceedings before the board, any person who requests service and is affected by the proposed increase in rates shall receive a notice specified in paragraph 26.5(1)“b” not later than 60 days after the date of commencement of service to the customer.~~

~~(6) Approved notice will be required for each filing proposing an increase that is not directly identifiable with a previous customer notification.~~

~~(7) This subrule shall not apply to telephone utilities proposing to increase rates for only interexchange services, excluding EAS and intrastate access services.~~

~~(1) The notice as approved by the board shall be mailed or delivered electronically to all affected customers pursuant to the timing requirements of paragraph 26.5(1)“a.” Notice of proposed increases may be mailed with a regularly scheduled mailing of the utility. Electronic notice shall only be sent to customers who have agreed to receive electronic notice.~~

~~(2) Notice shall be conspicuously marked “Notice of Proposed Rate Increase” on the notice itself. If a separate mailing is utilized by a utility for customer notification, the outside of the mailing shall also be conspicuously marked “Notice of Proposed Rate Increase.” For notices delivered electronically, the subject line shall include “Notice of Proposed Rate Increase.”~~

~~(3) Failure of the postal service or Internet service provider to deliver the notice to any customers shall not invalidate or delay the proposed rate increase proceeding.~~

~~(4) After the date the first notice is mailed or delivered to any affected customer and until such rates are resolved in proceedings before the board, any person who requests service and is affected by the proposed increase in rates shall receive a notice specified in paragraph 26.5(1)“a” not later than 60 days after the date of commencement of service to the customer.~~

UTILITIES DIVISION[199](cont'd)

(5) Approved notice is required for each filing proposing a rate increase that is not directly identifiable with a previous customer notification.

f. This subrule shall not apply to telephone utilities proposing to increase rates for only interexchange services, excluding EAS and intrastate access services.

26.5(2) Applications filed in accordance with the provisions of Iowa Code section 476.7.

a. Any rate-regulated public utility filing an application with the board requesting a determination of the reasonableness of its rates, charges, schedules, service, or regulations shall submit at the time the application is filed, ~~factual evidence and written argument offered in support of its filing and provided that the public utility is not a rural electric cooperative, it shall also submit affidavits containing testimonial evidence testimony and exhibits in support of its filing for a general rate increase.~~ All such testimony and exhibits shall be given or presented by competent witnesses, under oath or affirmation, at the proceeding ordered by the board as a result of the application, and the proceeding ~~itself~~ shall be governed by the applicable provisions of 199—Chapter 7 and rule 199—26.4(476).

b. All of the foregoing requirements shall ~~likewise~~ apply in the event the board ~~shall~~, on its own motion, ~~initiate~~ initiates a formal proceeding to determine the reasonableness of a public utility's rates, charges, schedules, service, or regulations.

c. All testimony and exhibits shall be marked and identified in compliance with the naming convention as described in the board's electronic system standards or as required by board order.

26.5(3) Tariffs to be filed.

a. A rate-regulated public utility shall not make effective any new or changed rate, charge, schedule, or regulation until it has been approved by the board and the board has determined an effective date, except as provided in Iowa Code section ~~476.6, subsections 11 and 13~~ sections 476.6(8) and 476.6(9).

b. If the proposed new or changed rate, charge, schedule, or regulation is neither rejected nor approved by the board, the board will docket the tariff filing as a formal proceeding within 30 days after the filing date.

c. Proposed new or changed rates, charges, schedules, or regulations which contain energy efficiency expenditures and related costs ~~which are incurred after July 1, 1990,~~ for demand-side programs shall not be included in a rate-regulated utility's proposed tariff which relates to a general increase in revenue. A utility may propose to recover the costs of process-oriented industrial assessments not related to energy efficiency as defined in rule 199—35.2(476). ~~The filing is not a contested case proceeding under the Iowa administrative procedure Act unless and until the board docket it as a formal proceeding.~~

d. ~~No person will be permitted to participate in the filing prior to docketing, except that the~~ The consumer advocate and any customer affected by the filing, ~~except as limited by 199—subrules 22.12(1) and 22.13(1),~~ may submit within 20 days after the filing date a written objection to the filing and a written request that the board docket the filing, which request the board may grant in its discretion. Such written objections and requests for docketing shall set forth specific grounds relied upon in making the objection or request.

26.5(4) ~~Letter of transmittal~~ Transmittal letter and tariff changes. ~~Three copies of all tariffs and all additional, original, or revised sheets of tariffs and the accompanying letter of transmittal shall be filed with the board and~~

a. Two versions of all applicable proposed tariff revisions as detailed in paragraph 26.5(4) "b" along with an accompanying transmittal letter shall be filed at the same time as an application for a general increase in rates. The transmittal letter shall include or be accompanied with such information as is necessary to explain the nature, effect, and purpose of the proposed tariff or additional, original, or revised sheets submitted for filing changes. Such The information shall include, when applicable:

~~a.~~ (1) The amount of the aggregate annual increase or decrease proposed.

~~b.~~ (2) The names of communities affected.

~~d.~~ (3) A summary of the reasons for filing and such other information as may be necessary to support the proposed changes.

~~e.~~ ~~The number and classification of customers affected.~~

UTILITIES DIVISION[199](cont'd)

e. b. A marked version of the pages to be changed or superseded showing additions and deletions, if the tariff is prepared with word processing software supporting such marking. All new language must be marked by highlight, background shading, bold text, or underlined text. Deleted language must be indicated by strike through. The marked version may be in either paper or electronic form and may be prepared manually or by word processing. When a marked version is infeasible or not meaningful, the letter or transmittal should state the reason for its omission. The marked version shall show all additions and deletions, with all new language marked by underlined text and all deleted language indicated by strike-through. The original sheet shall include the following symbols in the right margin to indicate the place, nature, and extent of any text changes.

- (1) The symbol C shall indicate a change in regulation.
- (2) The symbol D shall indicate a discontinued rate or regulation.
- (3) The symbol I shall indicate an increased rate.
- (4) The symbol R shall indicate a reduced rate.
- (5) The symbol T shall indicate a change in the text that does not include a changed rate or regulation.

26.5(5) Evidence Testimony and exhibits to support applications based on a historical test year. Unless otherwise authorized by the board in writing prior to filing, a A utility must when proposing changes in tariffs or rate schedules rates; which changes relate to a general increase in revenue; shall prepare and submit file with its proposed tariff the following evidence in the form of testimony and exhibits in addition to the information required in 26.5(8) based upon a historical test year. The board shall act on requests for waivers not later than 14 days after filing of those requests. If no action is taken on a request for waiver, it shall be deemed denied.

a. Factors relating to value. A statement showing the original cost of the items of plant and facilities, for the beginning and end of the last available calendar year, any other factors relating to the value of the items of plant and facilities the utility deems pertinent to the board's consideration, together with information setting forth budgeting accounts for the construction of scheduled improvements.

b. Comparative operating data. Information covering the latest available calendar year immediately preceding the filing date of the application test year.

- (1) Operating revenue and expenses by primary account.
- (2) Balance sheet at beginning and end of test year.

c. Test year and pro forma income statements. Schedules Information setting forth revenues, expenses, net operating income of the last available calendar year, the adjustment of unusual items, and by adjustment to reflect operations for a full year under existing and proposed rates. The format of the information to be filed is available on the board's website at iub.iowa.gov.

d. Additional evidence testimony and exhibits for rural electric cooperatives. In addition to the foregoing evidence, a rural electric cooperative that has elected to be rate-regulated by the board shall file schedules information setting forth utility long-term debt and debt costs, accrued utility operating margins and other components of patronage capital, the cooperative's plan to refund utility patronage credits, the ratio of utility long-term debt to retained utility operating margins, the times interest earned ratio, the debt service coverage, authorized utility construction programs, utility operating revenues from base rates, and utility operating revenues from power cost adjustment clauses.

e. Additional evidence testimony and exhibits for investor-owned utilities. In addition to the foregoing evidence, an investor-owned utility shall file, at the same time the proposed increase is filed, the following information. For the purposes of these rules, "year of filing" means the calendar year in which the filing is made. Unless otherwise specified in these rules, the information required to be filed in this paragraph shall be based upon the calendar year immediately preceding the year of filing in which the application for a general rate increase is filed.

- (1) Rate base for both total company and Iowa jurisdictional operations calculated by utilizing a 13-month average of month-ending balances ending on December 31 of the year preceding the year of filing, and also calculated on a year-end basis, except for the cash working capital component of this figure, which will be computed on the basis of a lead-lag study as set forth in subparagraph (5).

UTILITIES DIVISION[199](cont'd)

~~The rate base for the Iowa jurisdictional operations of rate-regulated telephone utilities will be computed on the basis of actual month-end balances which have been verified and adjusted to reflect the results of true-up procedures. True-up is the comparison of actual usage for each deregulated service with any previous estimates of deregulated usage for a given time period for the purpose of adjusting rate base and income statement allocations between deregulated and regulated services. Trued-up month-end balances for each deregulated service will be completed through the end of the test year prior to the date of filing a general rate case.~~

~~(2) Revenue requirements for both total company and Iowa jurisdictional operations to include: operating and maintenance expense, depreciation, taxes, and return on rate base. The Iowa jurisdictional expenses of rate-regulated telephone utilities will be adjusted to reflect allocation factors which have been computed as a result of actual month-end balances which have been verified and adjusted to reflect the results of true-up procedures. True-up is the comparison of actual usage for each deregulated usage for a given time period for the purpose of adjusting rate base and income statement allocations between deregulated and regulated services. Trued-up month-end balances for each deregulated service will be completed through the end of the test year prior to the date of filing a general rate case.~~

~~(3) Capital structure calculated utilizing a 13-month average of month-ending balances ending on December 31 of the year preceding the year of filing, and also calculated on a year-end basis.~~

~~(4) Schedules Information supporting the proposed capital structure, schedules and information showing the calculation of the proposed capital cost for each component of the capital structure and schedules showing requested return on rate base with capital structure and corresponding capital cost.~~

~~(5) Cash working capital requirements, including a recent lead-lag study which accurately represents conditions during the test period. For the purposes of this rule, a lead-lag study is defined as a procedure for determining the weighted average of the days for which investors or customers supply working capital to operate the utility.~~

~~(6) Complete federal and state income tax returns for the two calendar years preceding the year of filing and all amendments to those returns. If a tax return or amendment has not been prepared at the time of filing, the return shall be filed with the board under this subrule at the time it is filed with the Internal Revenue Service or the state of Iowa department of revenue.~~

~~(7) Schedule of Information showing monthly Iowa jurisdictional expense by account as required by chapter 16 of the board's rules 199—Chapter 16 unless, upon application of the utility and prior to filing, the board finds that the utility is incapable of reporting jurisdictional expense on a monthly basis and prescribes another periodic basis for reporting jurisdictional expense.~~

~~(8) For gas, electric, and water, sanitary sewage, and storm water drainage utilities, a schedule of monthly consumption (units sold) and revenue by customer-rate classes, reflecting separately revenue collected in base rates and adjustment clause revenues. For telephone companies, a rate matrix as set forth in the company's annual report (page B-16), shall be filed along with a statement of the total amount of revenue produced under the rate matrix.~~

~~(9) Schedules Information showing that the rates proposed will produce the revenues requested and information showing the dollar and percent increase expected for various rates of consumption within major rate classes. In addition to ~~these schedules~~ this information, the utility shall submit in support of the design of the proposed rate a narrative statement describing and justifying the objectives of the design of the proffered rate. If the purpose of the rate design is to reflect costs, the narrative should state how that objective is achieved, and should be accompanied by a cost analysis that would justify the rate design. If the rate design is not intended to reflect costs, a statement should be furnished justifying the departure from cost-based rates. This filing shall be in compliance with all other rules of the board concerning rate design and cost studies.~~

~~(10) All monthly or periodic financial and operating reports to management beginning in January two years preceding the year of filing. The item or items to be filed under this rule include: (a) reports of sales, revenue, expenses, number of employees, number of customers, or similar data; and (b) related statistical material. This requirement shall be a continuing one, to remain in effect through the month that the rate proceeding is finally resolved. ~~Notwithstanding other provisions concerning the number of copies to be filed, one copy of each report shall be filed under this rule.~~~~

UTILITIES DIVISION[199](cont'd)

(11) ~~Schedule of Information~~ showing monthly tax accruals separated between federal, state, and property taxes, including the methods used to determine these amounts.

(12) Allocation methods, including formulas, supporting revenue, expense, plant or tax allocations.

(13) ~~Schedule Information~~ showing interest rates, dividend rates, amortizations of discount and premium and expense, and unamortized 13 monthly balances of discount and premium and expense, ending on December 31 of the year preceding the year of filing, for long-term debt and preferred stock.

(14) ~~Schedule Information~~ showing the 13 monthly balances of ~~capital~~ common stock expense associated with ~~common stock~~, ending on December 31 of the year preceding the year of filing.

(15) ~~Schedule Information~~ showing the 13 monthly balances of ~~capital surplus~~ paid-in capital in excess of par, separated between common and preferred stock, ending on December 31 of the test year preceding the year of filing. For the purpose of this rule, capital surplus means amounts paid in that are less than or are in excess of par value of the respective stock issues.

(16) Stockholders' reports, including supplements for the year of filing and the two preceding calendar years. If such reports are not available at the time of filing, they shall be filed immediately upon their availability to stockholders.

(17) If applicable, ~~securities and exchange commission~~ Securities and Exchange Commission Form 10Q for all past quarters in the year of filing and the preceding calendar year, and Form 10K for the two preceding calendar years or, if applicable, comparable filings for corporations headquartered outside of the United States. If these forms have not been filed with the Securities and Exchange Commission at the time the rate increase is filed, they shall be filed under this subrule immediately upon filing with the Securities and Exchange Commission. This requirement is not applicable for any such reports which are routinely and formally filed with the board.

(18) Any prospectus issued during the year of filing or during the two preceding calendar years.

(19) Consolidated and consolidating financial statements.

(20) Revenue and expenses involving transactions with affiliates and the transfer of assets between the utility and its affiliates.

(21) ~~A schedule Information~~ showing the following for each of the ~~15~~ five calendar years preceding the year of filing, and for each quarter from the first quarter of the calendar year immediately preceding the year of filing through the current quarter.

1. Earnings, annual dividends declared, annual dividends paid, book value of common equity, and price of common equity (each item should be shown per average actual common share outstanding, adjusted for stock splits and stock dividends).

2. Rate of return to average common equity.

3. Common stock earnings retention ratio.

~~For common stock issued pursuant to tax reduction act stock ownership plans, employee stock option plans, and dividend reinvestment plans: net proceeds per common share issued, and number of shares issued and previously outstanding at the beginning of the year. This shall be set forth separately for each of the three types of plans, and reported as annual aggregates or averages.~~

4. For other issues of common stock: net proceeds per common share issued, and number of shares issued and previously outstanding for each issue of common stock.

(22) If the utility is applying for a gas rate increase, ~~a schedule for weather normalization, including details of the method used~~ the model used to calculate the weather normalization adjustment and documentation supporting the model inputs. The weather normalization model preferred by the board is available on the board's website at iub.iowa.gov.

(23) All testimony and exhibits in support of the rate filing, attached to affidavits of the sponsoring witnesses. All known and measurable changes in costs and revenues upon which the utility relies in its application shall be included.

1. Unless otherwise required, ~~an original plus ten copies of all testimony, and exhibits, and four copies of all other information, shall be filed in the board's electronic filing system as described in 199—14.5(17A,476). Three copies of each of the preceding items~~ In addition, three exact duplicate paper copies of documents filed electronically shall be provided to the board, and three copies shall be provided to the consumer advocate. In addition, two electronic copies of each computer-generated

UTILITIES DIVISION[199](cont'd)

~~exhibit which complies with the standards in 199—7.7(476) and two copies of a brief description of the software and hardware requirements of noncomplying electronic copies of computer-generated exhibits shall be filed with the board and the consumer advocate. Two copies of the noncomplying electronic copies shall be provided upon request by any party or the board. The paper copies shall be certified by an officer of the utility or by an attorney representing the utility.~~

~~2. If the utility which has filed for the rate increase is affiliated with another company as either parent or subsidiary, the information required in subparagraphs 26.5(5) “e” (3), (4), (6), (13) to (19), and (21) shall be provided for the parent company (if any) and for all affiliates which are not included in the consolidating financial statements filed pursuant to this rule.~~

~~(24) Information relating to advertisements including:~~

~~1.—A portfolio of all advertisements charged to ratepayers either produced, recorded or a facsimile thereof;~~

~~2.—Cost data for all advertisements and the accounting treatment utilized; and~~

~~3.—An account of total advertising expense including a breakdown of the expense by category.~~

~~f. All At the time of filing an application for increased rates, all rate-regulated utilities shall submit at the time of filing an application for increased rates file, as exhibits to testimony, all workpapers and data used to prepare the analysis and data submitted in support of the application. All workpapers shall substantially comply with the standards in 199—subrule 7.10(5).~~

~~g. Additional evidence testimony and exhibits. The applicant may submit file any other testimony, schedules, and exhibits, and data which it deems pertinent to the application.~~

~~(1) Additional evidence may include:~~

~~1.—Testimony, schedules, exhibits, and data concerning the cost of capital infrastructure investment that will not produce significant revenues and will be in service in Iowa within nine months of the test year.~~

~~2.—Testimony, schedules, exhibits, and data concerning cost of capital changes that will occur within nine months after the conclusion of the test year that are associated with a new generating plant that has been the subject of a ratemaking principles proceeding pursuant to Iowa Code section 476.53.~~

~~(2) The utility shall specifically identify and support the information, including providing an estimate at the time of filing and addressing prudence issues, regarding the changes that will be verifiable within nine months of the test year, with such verification provided to other parties as soon as the data is available. To be considered, the verifiable information must be offered into the record prior to the closing of the record at the hearing in the proceeding.~~

~~(3) A utility electing to file additional evidence under this paragraph shall include in the reports required in subparagraph 26.5(5) “e”(1) any capital infrastructure investments that will not produce significant revenues and have been placed in service in Iowa, or capital issuances that have been completed that are associated with a new generating plant that has been the subject of a ratemaking principles proceeding pursuant to Iowa Code section 476.53.~~

~~(4) A utility electing to file additional evidence under this paragraph shall provide additional schedules as required by subparagraphs 26.5(5) “e”(13), (14), and (15) related to capital issuances that have been completed that are associated with a new generating plant that has been the subject of a ratemaking principles proceeding pursuant to Iowa Code section 476.53.~~

~~Subparagraphs 26.5(5) “g”(1) through (4) are repealed effective July 1, 2007. However, any proceeding that is pending on July 1, 2007, that is being conducted pursuant to Iowa Code section 476.3 or 476.6 shall be completed as if subparagraphs 26.5(5) “g”(1) through (4) had not been repealed. Upon repeal of subparagraphs 26.5(5) “g”(1) through (4), the board may still consider the adjustments addressed in those subparagraphs, but shall not be required to consider them.~~

26.5(6) Evidence requested by the board Testimony and exhibits to support applications based on a future test year. The applicant shall furnish any additional evidence as ordered by the board at any time after the filing of the tariff Unless otherwise authorized by the board in writing prior to the filing of an application for a general increase in revenue based upon a future test year, the utility shall include the following testimony and exhibits to support the application.

UTILITIES DIVISION[199](cont'd)

a. Future test year. The evidence filed pursuant to this subrule shall be based upon any 12-month period beginning no later than the date on which the proposed rate change is expected to take effect.

b. Projected information. Information setting forth projected revenues, expenses, net operating income of the 12-month period beginning no later than the date on which the proposed permanent rates are expected to take effect, the adjustment of unusual items, and reflecting operations for a full 12-month period under existing and proposed rates shall be filed. The format of the spreadsheets is available on the board's website at iub.iowa.gov.

c. Projected comparative operating data. Information and data shall be filed as follows:

(1) Projected operating revenue and expenses by primary account.

(2) Projected balance sheet.

d. Additional testimony and exhibits. In addition to the foregoing testimony and exhibits, the following information, which shall be based upon any 12-month period beginning no later than the date on which the proposed rate change is expected to take effect, shall be filed.

(1) Projected rate base for both total company and Iowa jurisdictional operations.

(2) Projected revenue requirements for both total company and Iowa jurisdictional operations to include operating and maintenance expense, depreciation, taxes, and return on rate base.

(3) Projected capital structure.

(4) Information showing the calculation of the proposed capital cost for each component of the capital structure and information showing requested return on rate base with capital structure and corresponding capital cost.

(5) Projected cash working capital requirements, including a lead-lag study which represents conditions during the future test period. For the purposes of this rule, a lead-lag study is defined as a procedure for determining the weighted average of the days for which investors or customers supply working capital to operate the utility.

(6) Projected federal and state income taxes for the future test year.

(7) Information showing projected monthly Iowa jurisdictional expenses by account.

(8) Projected monthly consumption (units sold) and projected revenue by customer-rate classes, separately reflecting revenue collected in base rates and adjustment clause revenues. The same information for the calendar year prior to the filing of the application shall also be filed.

(9) Information showing that the rates proposed will produce the revenues requested and information showing the dollar and percent increase expected for various rates of consumption within major rate classes. The applicant shall submit in support of the design of the proposed rate a narrative statement describing and justifying the objectives of the design of the proffered rate. If the purpose of the rate design is to reflect projected costs, the narrative should state how that objective is achieved, and should be accompanied by a cost analysis that would justify the rate design. If the rate design is not intended to reflect projected costs, a statement should be furnished justifying the departure from cost-based rates.

(10) Projected monthly tax accruals separated between federal, state, and property taxes, including the methods used to determine these amounts.

(11) Allocation methods, including formulas, supporting projected revenue, expense, plant or tax allocations.

(12) Projected interest rates, dividend rates, amortizations of discount, premium, and expense, and unamortized balances of discount, premium, and expense for long-term debt and preferred stock.

(13) Projected common stock expense.

(14) Projected capital in excess of par, separated between common and preferred stock.

e. Workpapers, spreadsheets and formulas. All rate-regulated utilities shall file with an application for increased rates, as exhibits to testimony, all workpapers, spreadsheets and formulas, and data used to prepare the analysis and data submitted in support of the application.

f. Additional testimony and exhibits. The applicant may submit any other testimony and exhibits that the applicant deems relevant to the application.

g. Bridge period. As part of an application based on a future test year, a utility shall file the information required in subrule 26.5(6) for the bridge period.

UTILITIES DIVISION[199](cont'd)

26.5(7) *Applications pursuant to Iowa Code section 476.6 that are not general rate increase applications.* At the time a rate-regulated public utility, other than a rural electric cooperative that has elected to be rate regulated by the board, files for new or changed rates, charges, schedules, or regulations except in conjunction with general rate increase applications, it shall ~~submit~~ file the following:

- a. Any cost, revenue, or economic data underlying the filing.
- b. An explanation of how the proposed tariff would affect the rates and service of the public utility.
- c. All testimony and exhibits in support of the filing attached to affidavits of the sponsoring witnesses.

26.5(8) ~~Requests for temporary~~ *Temporary authority pursuant to Iowa Code section 476.6.* A rate-regulated utility may implement without board approval temporary rates, charges, schedules, or regulations ten days after filing notice with the board regarding the rate-regulated utility's implementation pursuant to Iowa Code section 476.6(9) "b."

a. A utility that chooses to implement temporary rates, charges, schedules, or regulations pursuant to Iowa Code section 476.6(9) "b" shall file the following:

(1) A statement that the utility has elected to implement temporary rates, charges, schedules, or regulations pursuant to Iowa Code section 476.6(9) "b."

(2) A bond or other corporate undertaking subject to review and approval by the board that at a minimum is equal to the increased amount that will be recovered through temporary rates. The bond or corporate undertaking shall include a commitment to refund, as directed by the board, any amounts in excess of the amounts that would have been collected under final rates, charges, schedules, or regulations ultimately approved by the board.

b. If at the conclusion of the proceeding the board determines that the temporary rates, charges, schedules, or regulations placed into effect on a temporary basis were not based upon previously established regulatory principles, the board may consider ordering refunds based upon the overpayments made by each individual customer class, rate zone, or customer group.

c. If at the conclusion of the proceeding the board finds that permanent rates are less than temporary rates implemented by a utility, the board shall order refunds with interest at a rate consistent with Iowa Code section 476.6(9) "c."

a. ~~A request for temporary authority to place in effect any suspended rates, charges, schedules, or regulations shall be separately identified and shall include:~~

(1) ~~For each adjustment or issue, a brief explanation of the adjustment or issue and its purpose which includes the specific regulatory principles relied on to support the adjustment or issue and citations to either the rules, statutes, or decisions in which the regulatory principle was codified or previously applied.~~

(2) ~~Schedules supporting the proposed temporary rate capital structure, schedules showing the calculation of the proposed capital cost for each component of the capital structure, and schedules showing requested return on rate base with capital structure and corresponding capital cost.~~

(3) ~~All workpapers supporting the request for temporary authority. The workpapers shall substantially comply with the standards in 199—subrule 7.10(5).~~

b. ~~Within 30 days of the filing of a request for temporary authority, an objection may be filed. An objection to a request for temporary authority shall separately identify each disputed adjustment or issue and shall include:~~

(1) ~~A brief explanation of the basis for the disputed adjustment or issue which includes the specific regulatory principles relied on and citations to either the rules, the statutes, or decisions in which the regulatory principle was codified or previously applied.~~

(2) ~~All workpapers supporting the objection to the request for temporary authority. The workpapers shall substantially comply with the standards in 199—subrule 7.10(5).~~

c. ~~Within 15 days of the filing of the objection, the utility may file a reply.~~

d. ~~For this rule, the following filing requirements apply:~~

(1) ~~Request for temporary authority—original plus ten copies.~~

(2) ~~Objections to request—original plus ten copies.~~

UTILITIES DIVISION[199](cont'd)

- ~~(3) Replies—original plus ten copies.~~
- ~~(4) Exhibits—original plus ten copies.—In addition, two electronic copies of each computer-generated exhibit shall be filed. Only electronic copies of computer-generated exhibits that comply with 199—7.7(476) shall be filed.~~
- ~~(5) Electronic workpapers—two copies and two hard-copy printouts.~~
- ~~(6) Other workpapers—five copies.~~
- ~~(7) Specific studies or financial literature—two copies. In addition, three copies of each document filed shall be provided to consumer advocate.~~

ITEM 6. Rescind and reserve rule **199—26.6(476)**.

ITEM 7. Amend rule 199—26.7(476) as follows:

199—26.7(476) Rate investigation. The board shall commence a rate investigation ~~upon the motion of the general counsel or the consumer advocate alleging that a rate-regulated utility's annual report, a special audit, or an investigation by the board staff or the consumer advocate, indicates that the earnings of that public utility may have been or will be excessive as required by Iowa Code section 476.3.~~ The board may also commence a rate investigation upon the motion of any interested person.

ITEM 8. Amend rule 199—26.8(476) as follows:

199—26.8(476) Procedural schedule in Iowa Code sections 476.3 and 476.6 proceedings.

26.8(1) In any proceeding initiated as a result of ~~the~~ a complaint filed pursuant to Iowa Code section 476.3 or a filing by a public utility of new or changed rates, charges, schedules, or regulations pursuant to Iowa Code section 476.6, the utilities board or presiding officer shall set a procedural schedule ~~based on the following guidelines, unless otherwise ordered by the utilities board or presiding officer pursuant to this rule.~~ The times and places of consumer comment ~~hearings~~ meetings shall be set at the discretion of the utilities board or presiding officer on a case-by-case basis. The procedural schedule for an application for a general rate increase and associated revised tariffs shall be as follows, unless otherwise ordered by the board.

~~Prepared direct testimony and exhibits in support of the filing—date of initial filing.~~

~~Docket case as a formal proceeding, suspend effective date of new or changed rates, charges, schedules or regulations and establish procedural schedule—not later than 30 days from the date of initial filing.~~

~~All further testimony—completed not later than six months from date of initial filing.~~

~~Cross-examination of all testimony—completed not later than seven months from date of initial filing.~~

~~Briefs of all parties—filed not later than eight and one-half months from date of initial filing.~~

a. Case docketed as a formal proceeding and effective date of new or changed rates, charges, schedules, or regulations suspended not later than 30 days from the date of initial filing.

b. Direct and rebuttal testimony and exhibits from consumer advocate and other parties filed within five months from the date the application for a general rate increase is filed.

c. Consumer advocate and other parties cross-reply testimony and exhibits filed 15 days after responsive testimony.

d. Reply testimony and exhibits from the utility filed not later than six months from the date of the application for a general rate increase is filed.

e. Hearing completed not later than seven months from the date the application for a general rate increase is filed.

f. Briefs of all parties filed not later than eight and one-half months after the date the application for a general rate increase is filed.

26.8(2) In a proceeding initiated as a result of the filing of a complaint pursuant to Iowa Code section 476.3, the utilities board or presiding officer shall set a procedural schedule based on the following guidelines, unless otherwise ordered by the utilities board or presiding officer pursuant to this rule.

~~Prepared direct testimony and exhibits in support of the filing—date of initial filing.~~

UTILITIES DIVISION[199](cont'd)

~~Docket case as a formal proceeding to suspend effective date of new or changed rates, charges, schedules or regulations and establish procedural schedule—not later than 30 days from the date of initial filing.~~

~~All further testimony—completed not later than six months from date of initial filing.~~

~~Cross-examination of all testimony—completed not later than seven months from date of initial filing.~~

~~Briefs of all parties—filed not later than eight and one-half months from date of initial filing.~~

~~26.8(3) 26.8(2)~~ In setting the procedural schedule in a case, the board or administrative law judge presiding officer shall take into account the existing hearing calendar and shall give due regard to other obligations of the parties, attorneys and witnesses. The board or administrative law judge presiding officer may, on its own motion or upon the motion of any party, including the consumer advocate, for good cause shown change the time and place of any hearing. Any effect such a change has on the remainder of the procedural schedule or the deadline for decision shall be noted addressed when the change is ordered.

~~26.8(4) 26.8(3)~~ Additional time may be granted a party, including the consumer advocate, upon a showing of good cause for the delay, including but not limited to:

a. Delay of completion of previous procedural step.

b. Delays in responding to discovery or consumer advocate data requests.

Any effect such an extension has on the remainder of the procedural schedule or the deadline for decision shall be noted in the motion for extension and the board order granting the extension.

~~26.8(5) 26.8(4)~~ If any party, including the consumer advocate, wishes to utilize the electric generating facility exception to the ten-month decision deadline contained in Iowa Code section 476.6, ~~it the party~~ shall expeditiously file a motion seeking this exception including an explanation of that portion of the suspended rates, charges, schedules or regulations necessarily connected with the inclusion of the generating facility in rate base. Any other party may file a response to such a motion.

~~26.8(5)~~ Subsequent proceeding for general rates increase based upon a future test year. When approving rates based upon a future test year, the board shall set a procedural schedule and hearing date for a review of the approved rates to determine whether actual costs and revenues are reasonably consistent with the approved rates.

ITEM 9. Amend rule 199—26.9(476) as follows:

199—26.9(476) Consumer comment hearing meeting in docketed rate case of an investor-owned utility company. The board shall may hold consumer comment ~~hearings~~ meetings to provide an opportunity for members of the general public who are customers of ~~an investor-owned~~ a rate-regulated utility company involved in a ~~docketed~~ general rate case to express their views regarding the case before the board as well as the general quality of service provided by the utility. However, specific service complaints must follow the procedure prescribed in 199—6.2(476). Nothing shall prohibit the board from holding consumer comment ~~hearings~~ meetings on any other docketed rate case.

~~26.9(1)~~ The consumer comment hearing ~~will be presided over by either the board member(s) or an administrative law judge assigned by the board.~~ A member of the board shall be assigned to preside over a consumer comment meeting. Representatives from the utility company shall be present to explain, in a concise manner, the pertinent points of the ~~company's~~ utility's proposal. The ~~company's~~ utility's representatives shall also respond to any questions directed to ~~them~~ the utility. ~~All representatives from the utility company that are participating, except for legal counsel, shall be under oath. All board staff members that are participating in the hearing shall be under oath.~~

~~26.9(2)~~ Individuals who wish to testify at the consumer comment hearing need not preregister with the board but need only sign up at the time of the hearing. The board member(s) or administrative law judge may limit the length of testimony when a large number of persons wish to testify. Sworn testimony shall become a part of the permanent record of the rate proceeding.

~~26.9(3)~~ All participants in the hearing may correct misinformation within testimony. Correction of misinformation may be made at the time of the hearing during oral presentation or, if the misinformation does not come to the attention of the participants until after the hearing, correction of misinformation may

UTILITIES DIVISION[199](cont'd)

be submitted in writing to the board within 20 days after the oral presentation. Written submissions shall be limited to a statement identifying the party whose testimony is to be corrected, and a brief statement of the incorrect testimony. This shall be followed by a brief statement of the correct information. This procedure shall be utilized to correct only such information that is clearly erroneous. Written submissions of corrections of misinformation shall not be used to slant, clarify or add to the testimony given during oral presentation. Corrections of misinformation which comply with this rule shall become a part of the permanent record.

The consumer comment hearing is not an appropriate forum for any party to make a record for or against the rate case.

~~26.9(4)~~ **26.9(2)** The consumer comment hearing meeting shall be held in a major population center served by the utility company at a time of day convenient to the largest number of customers. The board may schedule consumer comment meetings at multiple locations. Each meeting shall be conducted in a facility large enough to accommodate all who wish to attend. Notice of the consumer comment hearing meeting shall be sent by the board's public information office to newspapers, radio, and television stations in the area served by the utility company board to appropriate media outlets.

~~26.9(5)~~ **26.9(3)** Individuals unable to attend a consumer comment hearing may submit written comments to the board. Written comments shall become part of the permanent case file of but shall not constitute evidence in the rate proceeding, but not part of the record as sworn testimony.

~~26.9(6)~~ Consumer comment hearing may be waived by the board if the interests of the public are better served without a hearing.

This rule is intended to implement Iowa Code sections 474.5, 476.1 to 476.3, 476.6, 476.8, 476.10, 476.31 to 476.33.

ITEM 10. Rescind and reserve rule 199—~~26.10(476)~~.

ITEM 11. Amend rule 199—26.11(476) as follows:

199—26.11(476) Consideration of current information in rate regulatory proceedings Switching from a future test year to a historical test year. Consistent with Iowa Code section 476.33, a utility may file an application for a rate regulatory proceeding under Iowa Code section 476.6 using either a historical test year or future test year. A utility shall not file an application for a general rate increase using a historical test year within four years from the date the board issues a final order in the subsequent proceeding following the approval of rates based upon a future test year. If a utility provides both gas and electric service, the limitation in the preceding sentence on using a historical test year shall only apply to the service for which the utility's rates were set using a future test year.

26.11(1) Test period. In rate regulatory proceedings under Iowa Code sections 476.3 and 476.6, the board shall consider the use of the most current test period possible in light of existing and verifiable data respecting costs and revenues available as of the date of commencement of the proceedings.

26.11(2) Known and measurable changes. In rate regulatory proceedings under Iowa Code sections 476.3 and 476.6, the board shall consider:

a. Verifiable data, existing as of the date of commencement of the proceedings, respecting known and measurable changes in costs not associated with a different level of revenue and known and measurable revenues not associated with a different level of costs, that are to occur within 12 months after the date of commencement of the proceedings.

b. Data which becomes verifiable prior to the closing of the record at the hearing respecting known and measurable:

(1) Capital infrastructure investments that will not produce significant additional revenues and will be in service in Iowa within nine months after the conclusion of the test year.

(2) Cost of capital changes that will occur within nine months after the conclusion of the test year that are associated with a new generating plant that has been the subject of a ratemaking principles proceeding pursuant to Iowa Code section 476.53.

UTILITIES DIVISION[199](cont'd)

~~Verifiable data filed pursuant to paragraph 26.11(2) "b" shall be provided to other parties as soon as the data is available so that other parties have a reasonable opportunity to verify the data to be considered by the board.~~

~~Paragraph 26.11(2) "b" is repealed effective July 1, 2007. However, any proceeding that is pending on July 1, 2007, that is being conducted pursuant to Iowa Code section 476.3 or 476.6 shall be completed as if paragraph 26.11(2) "b" had not been repealed. Upon repeal of paragraph 26.11(2) "b," the board may still consider the adjustments addressed in the paragraph, but shall not be required to consider them.~~

~~**26.11(3)** Postemployment benefits other than pensions. For rate-making purposes, the amount accrued for postemployment benefits other than pensions in accordance with Financial Accounting Standard No. 106 will be allowed in rates where:~~

~~a.—The net periodic postemployment benefit cost and accumulated postemployment benefit obligations have been determined by an actuarial study completed in accordance with the specific methods required and outlined by SFAS No. 106.~~

~~b.—The accrued postemployment benefit obligations have been funded in a board-approved, segregated and restricted trust account, or alternative arrangements have been approved by the board. Cash deposits shall be made to the trust at least quarterly in an amount that is proportional and, on an annual basis, at least equal to the annual test period allowance for postemployment benefits other than pensions.~~

~~c.—The transition obligation is amortized over a period of time determined by the board that does not exceed 20 years.~~

~~d.—Any funds, including income, returned to the utility from the trust not actually used for postemployment benefits other than pensions shall be refunded to customers in a manner approved by the board.~~

~~e.—The board finds the benefit program and all calculations are prudent and reasonable.~~

~~**26.11(4)** An actuarial study of the net periodic postemployment benefit cost and accumulated postemployment benefit obligations shall be determined and filed with the board at the time a rate increase is requested, when there has been a change in postemployment benefits other than pensions offered by the utility, or every three years, whichever comes first.~~

~~**26.11(5)** For a period not to exceed three years commencing January 1, 1993, a rate-regulated utility may record on its books each year as a deferral the difference between the amount accrued in accordance with SFAS 106 and the amount which would have been recorded for postemployment benefits other than pensions on a pay-as-you-go basis for that year. In calculating the amount to be deferred, the utility may include in the deferral the amortization of transition obligation costs in accordance with SFAS 106.~~

~~**26.11(6)** Recovery of the deferrals authorized in subrule 26.11(5) will be considered only in rate cases filed prior to December 31, 1995.~~

~~This rule is intended to implement Iowa Code sections 476.1 to 476.3, 476.6, 476.8, 476.10 and 476.31 to 476.33.~~

ITEM 12. Amend rule 199—26.12(476) as follows:

199—26.12(476) Rate regulation election—electric cooperative corporations and associations.

26.12(1) *Application of rules.* Electric cooperative corporations and associations shall not be subject to the jurisdiction of the utilities board except as provided in Iowa Code section 476.1A and paragraphs "a," "b," and "c" of this subrule chapter.

a. *Procedure for election by members.* Upon petition of not less than 10 percent of the members of an electric cooperative or upon its own motion, the board of directors of an electric cooperative shall order a referendum election to be held to determine whether the electric cooperative shall be subject to the jurisdiction of the utilities board. A petition for election shall be completed within 60 days of commencement.

(1) Any member of an electric cooperative desiring a referendum election shall sign a petition for election addressed to the board of directors of an electric cooperative, in substantially the following form:

PETITION FOR ELECTION

TO: (Board of Directors of subject electric cooperative)

UTILITIES DIVISION[199](cont'd)

The undersigned members request you call an election to submit to the members the following proposition:

Shall . . . (name of the electric cooperative) be subject to rate regulation by the utilities board?

Signature	Address	Date
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(2) Where signatures are made on more than one sheet, each sheet of the petition shall reproduce above the signatures the same matter as is on the first sheet. Each petitioner shall sign ~~their~~ the petitioner's name in ~~their~~ the petitioner's own handwriting and shall write ~~their~~ the petitioner's address and the date on which ~~they~~ the petitioner signed.

(3) The petition shall be filed with the board of directors of the electric cooperative and an election shall be held not less than 60 days nor more than 90 days from the date on which the petition was filed.

(4) On the election date, the board of directors of the electric cooperative shall mail by first-class mail to each member of the electric cooperative a ballot containing the following language:

Shall . . . (name of the electric cooperative) be subject to rate regulation by the utilities board?

Yes No

(5) The ballot shall also contain a self-addressed envelope to return the ballot to the secretary of the board of directors of the electric cooperative. The ballot shall be dated when received by the secretary. The ballot must be received by the secretary not more than 30 days after it was mailed to the members. The election procedure shall require a signature form for verification, but shall not allow the signature to be traced to the vote of a particular member.

(6) The issue in the election shall be decided by a majority of the members voting whose ballots are received by the secretary. Fifty-one percent of the membership shall constitute a quorum for the election. The secretary shall certify the results of the election and file the results with the ~~executive secretary of the utilities board~~ within 30 days of the election.

b. Procedure for election by board. Upon the resolution of a majority of the board of directors of an electric cooperative, the board may elect to be subject to the jurisdiction of the utilities board. The secretary of the board of directors of the electric cooperative shall file a certified copy of the resolution with the executive secretary of the utilities board within 30 days of the adoption of the resolution.

c. Effective date. Upon the resolution of a majority of the board of directors of an electric cooperative or when a majority of the members voting vote to place the cooperative under the jurisdiction of the utilities board, the utilities board shall determine an effective date of its jurisdiction which shall be not more than 90 days from the election. On and after the effective date of jurisdiction, the cooperative shall be subject to regulation by the utilities board.

d. Prohibited acts. Funds of an electric cooperative shall not be used to support or oppose the issue presented in the election. Nothing shall prohibit a letter of explanation and direction from being enclosed with the ballot.

e. Procedure for exemption. After the cooperative has been under the jurisdiction of the utilities board for two years, the members or the board of directors of the electric cooperative may elect to remove the cooperative from under the jurisdiction of the utilities board ~~in the same manner as when electing to be placed under the jurisdiction of the utilities board as allowed by Iowa Code section 476.1A(4).~~

f. Frequency of election. An electric cooperative shall not conduct more than one election pursuant to this ~~subsection~~ subrule within a two-year period.

26.12(2) Rate increase considerations—rural electric cooperatives. The board's consideration of the fair and reasonable level of rates necessary for rural electric cooperatives that have elected to be subject to rate regulation by the board shall include the following:

a. After investigation of the historical test year results and pro forma adjustments thereto, the board shall determine the extent to which the applicant has met the following conditions:

UTILITIES DIVISION[199](cont'd)

- (1) Revenues are sufficient for a times interest earned ratio of from 1.5 to 3.0 for coverage of interest on outstanding utility short-term and long-term debt; or
- (2) Revenues are sufficient for a debt service coverage ratio of from 1.25 to 2.50 on utility long-term debt; or
- (3) Utility operating margins are sufficient for a ratio of from 1.5 to 2.5 of utility operating margins to interest on utility short-term and long-term debt; or
- (4) Utility operating margins are sufficient for a ratio of from 1.25 to 1.75 of utility operating margins plus utility depreciation, all divided by utility long-term interest plus principal; and
- (5) Utility operating margins are sufficient to return utility patronage capital credits accumulated from utility operating margins, with a retention of such credits of no more than 20 years allowed, subject to modification where compelling circumstances require time period adjustments.

b. In addition to the information in "~~a~~" paragraph 26.12(2) "*a*" above, evidence of the necessity for the requested rate relief may include, but need not be limited to, utility operating margins which will enable the cooperative to attain and maintain a reasonable ratio of utility long-term debt to retained utility operating margins. Cooperative's authorized construction program and an official policy statement of its board of directors on a desired ratio will be considered factors in the determination of the reasonableness of any such ratio.

c. The utilities board's initial decision will become final 15 days following its date of issuance; however, if filed within that 15-day period, allegations of error by the cooperative, ~~staff~~ or any intervenor as to the utilities board's findings of fact, together with a statement of readiness to present testimony, will serve to hold final disposition in abeyance pending the scheduling and completion of an evidentiary hearing. When such allegation is made, testimony in support of such position must be filed within 30 days of such filing. Upon receipt of the testimony, the utilities board will schedule additional filing dates and set the matter for hearing. When a hearing is scheduled, final disposition of the rate proceeding will be accomplished under the contested case provisions of the Iowa administrative procedure Act and the utilities board's rules and regulations thereunder.

ITEM 13. Adopt the following new rule 199—26.13(476):

199—26.13(476) Rate proceedings for small utilities. For purposes of this rule, a small utility shall mean a utility subject to rate regulation that serves fewer than 5,000 customers. A small utility that has had a full rate case before the board within the past ten years shall be eligible to file an application for a rate increase under this rule no more frequently than once every 24 months.

26.13(1) At least 60 days prior to filing an application under this rule, a utility shall participate in a public technical conference with board staff and the consumer advocate at which the utility shall provide an overview of its planned rate increase application.

26.13(2) A utility filing under this rule is subject to the notice requirements of subrule 26.5(1) and the temporary rate provisions of subrule 26.5(8).

26.13(3) A utility's filing under this rule will take the form of a proposed tariff with a 90-day effective date along with supporting testimony and exhibits.

26.13(4) A utility shall file information showing the revenue requirement and revenue deficiency for Iowa jurisdictional operations, a template for which can be found on the board's website at iub.iowa.gov. If the utility is applying for a gas rate increase, the utility shall file information utilizing the weather normalization model preferred by the board which is available on the board's website.

26.13(5) The filing shall be based upon the following assumptions:

a. Adjustments to book values shall be limited to 400 series accounting entries that are required to be excluded from rates.

b. Return on equity (ROE) will be based on average ROEs awarded to similar utilities for the prior year as reported by Regulatory Research Associates.

c. Utility and parent capital structures will be the same as those approved in the utility's last rate case.

26.13(6) The proposed overall rate increase will be applied uniformly to all rates and charges so that no changes in class cost of service allocations occur.

UTILITIES DIVISION[199](cont'd)

26.13(7) No new rates, charges, or riders shall be proposed.

26.13(8) Proposed rate increases shall be capped at 5 percent.

26.13(9) The board establishes a rebuttable presumption that rate case expense in excess of \$50,000 for a filing under this rule is unreasonable.

26.13(10) The recovery mechanism for rate case expense shall be determined by the board. Recovery may be through base rates, by means of a rider, or otherwise. The applicable recovery period will be determined in the rate proceeding. Recovery through a rider will end once the expense is fully recovered.

ITEM 14. Amend **199—Chapter 26**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 474.3, 474.5, and 474.6, ~~476.1 to 476.3, 476.6, 476.8 to 476.10, 476.15, 476.31 to 476.33 and 546.7.~~

ARC 4047C

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Notice of Intended Action

Proposing rule making related to overpayment of benefits and providing an opportunity for public comment

The Workforce Development Department hereby proposes to amend Chapter 25, “Benefit Payment Control,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 96.11.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 96.

Purpose and Summary

These proposed amendments update Department policies for collecting and recovering overpayment balances from claimants who have received benefits to which they were not entitled. Adding the ability to pay by credit card and specifying that the second notice should be a demand letter rather than another billing statement would assist the Department in recovering these balances and restoring them to the unemployment trust fund.

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.

WORKFORCE DEVELOPMENT DEPARTMENT[871](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 Department no later than 4:30 p.m. on October 30, 2018. Comments should be directed to:

David Steen
Iowa Department of Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Email: david.steen@iwd.gov

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend paragraph **25.7(6)“c,”** introductory paragraph, as follows:

c. If a claimant fails to respond to the ~~first~~ second statement of overpayment, a ~~second-statement demand letter~~ shall be sent 30 days later. The ~~second-statement demand letter~~ notifies the claimant that full repayment must be made. If the claimant cannot make full repayment, the department will consider a monthly repayment agreement. Monthly amounts based on the minimum repayment agreement schedule below will be printed on the ~~second-billing demand letter~~. The first repayment is expected 10 days from the date of the ~~second-repayment statement demand letter~~ and the additional repayments every 30 days thereafter until the debt is paid in full. The department reserves the right to accept or reject any proposed repayment agreement. The following minimum repayment agreement is acceptable to the department.

ITEM 2. Amend paragraph **25.7(6)“d”** as follows:

d. If a claimant fails to respond to the ~~second-repayment statement of overpayment~~, a ~~third notice demand letter~~ shall be sent in approximately 30 days. ~~The department has the option to send a notice which allows the claimant another 10 days to make full repayment of the indebtedness or a partial payment with an acceptable signed repayment agreement to prevent further collection action by the department, or the department may send a lien warning letter as the third billing notice. This warning gives 10 days to make full payment which will prevent lien filing.~~ The department may proceed with any appropriate lien or civil action to collect the debt, which would include, but not be limited to, a judgment in a court having jurisdiction over the matter. The same type of action may be pursued by the department in those cases where a claimant defaults on a repayment schedule.

ITEM 3. Amend paragraph **25.8(1)“a”** as follows:

a. The department shall mail a first statement of overpayment to the claimant’s last-known address. This statement will request full repayment in the form of a negotiable check, money order, credit card payment, or bank draft payable to the Department of Workforce Development.

WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

ITEM 4. Amend paragraph **25.8(1)“b”** as follows:

b. If a claimant fails to respond to the first statement of overpayment, a ~~second-statement demand~~ letter shall be sent 30 days later. The ~~second-statement demand~~ letter notifies the claimant that full repayment must be made. If the claimant cannot make full repayment, the department will consider a monthly repayment agreement.

ARC 4052C

HUMAN SERVICES DEPARTMENT[441]**Adopted and Filed Emergency After Notice****Rule making related to care of young persons with complex medical conditions**

The Human Services Department hereby amends Chapter 81, “Nursing Facilities,” and Chapter 82, “Intermediate Care Facilities for Persons with an Intellectual Disability,” Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

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

Purpose and Summary

Currently, Iowa does not have an appropriate system of care for young adults with complex medical conditions. This has resulted in inappropriate nursing home placements and could force Medicaid members to seek services outside the state of Iowa. Current rules are limited to residents who are 21 years of age and under. These amendments expand the special population nursing facility criteria to include persons residing in an intermediate care facility for persons with medical complexity up to age 30. The amendments will increase the number of qualified providers available to meet the needs of young adults with complex medical conditions.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 1, 2018, as **ARC 3908C**. The Department received comments from one respondent during the public comment period. The respondent was in favor of the amendments. 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 Department finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective on September 12, 2018, because the rule making confers a benefit on the public by expanding the special population nursing facility criteria to include persons residing in an intermediate care facility for persons with medical complexity up to age 30.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on September 12, 2018.

Fiscal Impact

This rule making has a fiscal impact to the State of Iowa. This rule making has a fiscal impact of \$100,000 annually or \$500,000 over five years. The fiscal impact statement for specific assumptions and description of how estimates were derived may be obtained by contacting the Department.

Jobs Impact

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

HUMAN SERVICES DEPARTMENT[441](cont'd)

Waivers

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

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 Administrative Rules Review Committee reviewed these amendments on September 11, 2018.

Effective Date

This rule making became effective on September 12, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend rule **441—81.1(249A)**, definition of “Special population nursing facility,” as follows:

“*Special population nursing facility*” refers to a nursing facility that serves the following populations:

1. One hundred percent of the residents served are aged ~~21~~ 30 and under and require the skilled level of care.
2. Seventy percent of the residents served require the skilled level of care for neurological disorders.
3. One hundred percent of the residents require care from a facility licensed by the department of inspections and appeals as an intermediate care facility for persons with mental illness.
4. One hundred percent of the residents require care from a facility licensed by the department of inspections and appeals as an intermediate care facility for persons with medical complexity.

ITEM 2. Adopt the following **new** definition of “Intermediate care facility for persons with medical complexity” in rule **441—82.1(249A)**:

“*Intermediate care facility for persons with medical complexity*” means an intermediate care facility for persons with an intellectual disability which provides health and rehabilitation services to individuals who require a skilled nursing level of care, have either a multiple organ dysfunction or severe single organ dysfunction, and require daily use of medical resources or technology.

[Filed Emergency After Notice 9/12/18, effective 9/12/18]

[Published 10/10/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/10/18.

ARC 4053C

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Adopted and Filed

Rule making related to update of references, including those of department organization

The Department of Administrative Services hereby amends Chapter 1, "Department Organization," Chapter 4, "Public Records and Fair Information Practices," Chapter 5, "Petitions for Rule Making," Chapter 6, "Agency Procedure for Rule Making," Chapter 7, "Contested Cases," Chapter 8, "Declaratory Orders," Chapter 9, "Waivers," Chapter 41, "Auditing Claims," Chapter 42, "Accounting Procedures of Public Impact," Chapter 48, "Prepayment of Expenses," Chapter 55, "Eligible Lists," Chapter 56, "Filling Vacancies," Chapter 58, "Probationary Period," Chapter 59, "Promotion, Transfer, Temporary Assignment, Reassignment and Voluntary Demotion," Chapter 61, "Grievances and Appeals," Chapter 62, "Performance Review," Chapter 64, "Benefits," Chapter 65, "Political Activity," Chapter 66, "Conduct of Employees," Chapter 71, "Combined Charitable Campaign," Chapter 100, "Capitol Complex Operations," Chapter 101, "Parking," Chapter 102, "State Printing," Chapter 103, "State Employee Driving Guidelines," and Chapter 119, "Uniform Terms and Conditions for Service Contracts," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 8A.104, 17A.3 and 17A.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 7E.4, 8A.104 and 17A.7.

Purpose and Summary

These rules are being amended to correct outdated references to the Iowa Code and session law, to update procedures, and to update the Department's organizational references. The amendments address 25 of the Department's chapters of administrative rules in the Iowa Administrative Code and are part of the Department's five-year review of rules.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 15, 2018, as **ARC 3937C**. A public hearing was held on September 5, 2018, at 11 a.m. in the Procurement Conference Room, A Level, Hoover State Office Building, Des Moines, Iowa. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on September 19, 2018.

Fiscal Impact

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

Jobs Impact

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

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

Waivers

The Department will not grant waivers under the provisions of these rules, other than as may be allowed under Chapter 9 of the Department's rules concerning waivers.

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 14, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend rule 11—1.1(8A), introductory paragraph, as follows:

11—1.1(8A) Creation and mission. The department of administrative services (DAS) is established in Iowa Code chapter 8A. The department manages and coordinates the major resources of state government, including the human, financial, and physical ~~and informational~~ resources. The department was created to implement a world-class, customer-focused organization that provides a complement of valued products and services to the internal customers of state government.

ITEM 2. Amend rule 11—1.2(8A) as follows:

11—1.2(8A) Location. The department's primary office is located in the Hoover State Office Building, Third Floor, 1305 East Walnut Street, Des Moines, Iowa 50319-0150; ~~telephone (515)242-5120~~. Office hours are 8 a.m. to 4:30 p.m., Monday through Friday, excluding holidays. The department's ~~Web site~~ website at www.das.iowa.gov ~~das.iowa.gov~~ provides information about ~~all department organizational units the department's organization~~ and services.

~~1.2(1) General services enterprise location. The general services enterprise's primary office is located in the Hoover State Office Building, Level A South, 1305 East Walnut Street, Des Moines, Iowa 50319; telephone (515)242-5120. Office hours are 7:30 a.m. to 4:30 p.m., Monday through Friday, excluding holidays.~~

~~1.2(2) Human resources enterprise location. The human resources enterprise's primary office is located in the Hoover State Office Building, Level A, 1305 East Walnut Street, Des Moines, Iowa 50319-0150; telephone (515)281-3351. Office hours are 8 a.m. to 4:30 p.m., Monday through Friday, excluding holidays.~~

~~1.2(3) Information technology enterprise location. The information technology enterprise is located in the Hoover State Office Building, Level B, Des Moines, Iowa 50319. The general office telephone number is (515)281-5503. Hours of operation are 8 a.m. to 4:30 p.m., Monday through Friday, excluding holidays.~~

~~1.2(4) State accounting enterprise location. The state accounting enterprise's primary office is located in the Hoover State Office Building, Third Floor, 1305 East Walnut Street, Des Moines, Iowa 50319; telephone (515)281-4877. Office hours are 8 a.m. to 4:30 p.m., Monday through Friday, excluding holidays.~~

~~1.2(5) Central procurement enterprise location. The central procurement enterprise's primary office is located in the Hoover State Office Building, Third Floor, 1305 East Walnut Street, Des Moines, Iowa 50319; telephone (515)725-2725. Office hours are 8 a.m. to 4:30 p.m., Monday through Friday, excluding holidays.~~

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

ITEM 3. Amend rule 11—1.3(8A), introductory paragraph, as follows:

11—1.3(8A) Director. The ~~chief executive officer~~ head of the department is the director, who is appointed by the governor with the approval of two-thirds of the members of the senate. The director serves at the pleasure of the governor.

ITEM 4. Amend rule 11—1.4(8A) as follows:

11—1.4(8A) Administration of the department. In order to carry out the functions of the department, the following enterprises ~~and bureaus~~ have been established:

1.4(1) General services enterprise. The mission of the general services enterprise is to act as the state's business agent to meet agencies' needs for quality, timely, reliable and cost-effective support services and provide a work environment that is healthy, safe, and well-maintained. The chief operating officer, appointed by the director, heads the general services enterprise. The following ~~bureaus~~ have been established within the general services enterprise:

a. Capitol complex maintenance. ~~The capitol~~ Capitol complex maintenance ~~bureau~~ is responsible for the maintenance, appearance, and facility sanitation of the capitol complex buildings and grounds, including environmental control (heating, ventilation and cooling) and all support features including, but not limited to, parking lot maintenance, main electrical distribution, power generation, water supply, utilities, energy efficiency, wastewater removal, on-site safety consultation, work requests for the capitol complex, major maintenance projects associated with the capitol complex, special event coordination, monuments, physical security and access control.

b. Design and construction resources. ~~The design~~ Design and construction resources ~~bureau~~ provides administration of public improvement projects, including design services, contracting for construction, and construction management oversight for state agencies except any agency of the state exempted by law. Capital funding appropriated to participating state agencies shall be transferred to ~~the design and construction resources bureau~~ for administration. ~~The design~~ Design and construction resources ~~bureau~~ is responsible for the administration of major maintenance for agencies in accordance with Iowa Code section 8A.302(4).

c. Mail services. ~~The mail bureau~~ Mail services is responsible for the processing and distribution of mail, which consists of U.S. Mail, UPS, Federal Express, courier service and interoffice mail for the state agencies on the capitol complex and in designated areas in the Des Moines metropolitan area.

d. Service delivery Capitol complex events. ~~The service delivery bureau~~ Capitol complex events is responsible for the following functions for the enterprise: parking and building access; coordination of events in the public area of the capitol, in other buildings on the capitol complex (excluding the historical building), and on the capitol complex grounds; and providing general information regarding the buildings and grounds on the capitol complex.

e. Real-estate services Leasing and space management. ~~The real-estate services bureau~~ Leasing and space management is directly responsible for the management of all leased real estate across the state while also providing real estate consultation services pertaining to acquisition, disposition, and development of real property. Specific services may include market research, opinion of property value, financial analysis, long-term real estate strategy, and project management in accordance with Iowa Code section 8A.321(6). Space planning, including moves, additions, and changes, and surplus property ~~are~~, is also coordinated by ~~the bureau~~ leasing and space management.

1.4(2) Human resources enterprise. The human resources enterprise is responsible for human resource management in the executive branch of Iowa state government and provides limited services to the judicial and legislative branches. The mission of the human resources enterprise is to support state agencies in their delivery of services to the people of Iowa by providing programs that recruit, develop, and retain a diverse and qualified workforce, and to administer responsible employee benefits programs for the members and their beneficiaries. The director appoints the chief operating officer of the enterprise. The following ~~bureaus~~ have been established within the human resources enterprise:

a. Benefits Risk and benefits management. ~~The benefits bureau~~ Risk and benefits management administers and coordinates the provision of health, dental, life, and disability insurance programs;

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

employee leave programs; workers' compensation, return to work, and loss control and safety programs; 457 deferred compensation; 403(b) tax-sheltered annuity and 401(a) employer match programs; unemployment insurance; and flexible spending and premium conversion programs for state employees.

b. Employment services. ~~The employment bureau~~ Employment services provides application, referral, recruitment, selection, EEO/AA and diversity services related to state employment; administration of the state classification and compensation programs; and audit of personnel and payroll transactions.

c. Program delivery services ~~Organizational performance.~~ Organizational performance is responsible for employment relations between the state and the certified employee representative; provides consultative services to state departments, boards, and commissions on human resource program matters; provides organization and employee development services including workforce planning and performance evaluation; and represents the state in contested case matters regarding such programs.

~~1.4(3) Information technology enterprise.~~ The mission of the information technology enterprise is to provide high quality, customer focused information technology services and business solutions to government and to citizens. The director appoints the chief information officer for the state, who also serves as the chief operating officer of the enterprise. The following bureaus have been established within the information technology enterprise:

a. Application and E-government services. The application and E-government services bureau is responsible for support of departmental information technology services; providing software applications development, support, and training; and providing advice and assistance in developing and supporting business applications throughout state government.

b. Infrastructure services. The infrastructure services bureau is responsible for providing server systems, including mainframe and other server operations, desktop support, printing and printing procurement services.

c. Integrated Information for Iowa (I/3) project. The I/3 project office provides the strategic direction, functional deployment, and technical support for the I/3 system, including the enterprise accounting, procurement, budget preparation, human resources and payroll functions for the state of Iowa. I/3's vision is to provide greater responsiveness to customers, improved productivity, increased accountability and efficient delivery of services across state government, and consistent and accurate information that Iowans want.

d. Advisory groups:

(1) ~~Technology governance board.~~ The technology governance board operates pursuant to 2005 Iowa Acts, House File 839.

(2) ~~IOWAccess advisory council.~~ The IOWAccess advisory council is established within the department for the purpose of creating and providing to the citizens of this state a gateway for one-stop electronic access to government information and transactions, whether federal, state, or local.

~~1.4(4) 1.4(3) State accounting enterprise.~~ The state accounting enterprise was created to provide for the efficient management and administration of the financial resources of state government. The chief operating officer, appointed by the director, heads the enterprise. The following ~~functional units~~ have been established within the state accounting enterprise:

a. Accounting and daily processing. ~~The accounting~~ Accounting and daily processing bureau includes the functions of daily processing, income offset, and financial systems.

b. Other sections functions. The state accounting enterprise also includes ~~the~~ financial reporting section, the I/3 program team, and ~~the~~ centralized payroll section.

~~1.4(5) 1.4(4) Central administration.~~

a. Director's office. The director is the ~~chief executive officer for~~ head of the department. The director's central administration ~~area~~ provides support to the director and to the governmental and business operations of the department and its enterprises. The following functions are included ~~in this area~~: general counsel; legislative liaison; rules administrator; strategic, performance, and business continuity planning; program oversight and accountability; and departmental and enterprise policy and standards development.

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

~~*b. Information security office.* The information security office is responsible for developing, implementing and maintaining information security policies, standards, and practices that enhance the confidentiality, integrity and availability of computer systems and electronic data resources, and for ensuring enterprise-wide compliance with security requirements. This office includes the chief information security officer for state government.~~

~~*e. b. Marketing, communications and customer council support.* Marketing, communications and customer council support supplies provides the department's media, public relations, and employee communications services; supports product and service marketing within each of the department's enterprises; and coordinates customer council activities for the department.~~

~~**1.4(6) 1.4(5)** *Customer management, finance, and internal operations.* This division Customer management, finance, and internal operations provides customer management, finance, and internal operations oversight, administration, and support in a manner that provides accurate and timely information, safeguards assets, and facilitates fiscally responsible, employee-centered and customer-focused decision making for the department. ~~The functional units of the customer management, finance and internal operations division are:~~~~

~~*a. Activity-based costing;*~~

~~*b. Accounts payable, purchasing, human resources, and administrative support;*~~

~~*c. Financial reporting and budget; and*~~

~~*d. Accounts receivable, billing, collections, and customer resource management.*~~

~~**1.4(7) 1.4(6)** *Central procurement and fleet services enterprise.* The chief operating officer of the enterprise is appointed by the director and directs the work of the enterprise.~~

~~*a. The central Central procurement bureau is charged with procuring goods and services for agencies pursuant to Iowa Code chapter 8A. These rules and applicable Iowa Code sections apply to the purchase of goods and services of general use by any unit of the state executive branch, except any agencies or instrumentalities of the state exempted by law.*~~

~~*b. The central Central procurement bureau shall manage statewide purchasing and electronic procurement, including managing procurement of commodities, equipment and services for all state agencies not exempted by law.*~~

~~*c. The fleet Fleet services bureau is responsible for the management of vehicular risk and travel requirements for state agencies not exempted by law.*~~

ITEM 5. Amend **11—Chapter 1**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 8A and sections 7E.1 through 7E.5 and 17A.3, and 2005 Iowa Acts, House File 776 and House File 839.

ITEM 6. Amend subrule 4.3(1) as follows:

4.3(1) *Location of record.* A request for access to a record under the jurisdiction of the department shall be directed to the office where the record is kept. If the location of the record is not known by the requester, the request shall be directed to the Iowa Department of Administrative Services, Hoover State Office Building, Level A Third Floor, Des Moines, Iowa 50319. The department will forward the request appropriately. If a request for access to a record is misdirected, department personnel will forward the request to the appropriate person within the department.

ITEM 7. Amend paragraph **4.13(2)“I”** as follows:

l. Confidential assignments of state vehicles by the state vehicle dispatcher. These records include letters/memos detailing driver assignments and plate numbers for selected vehicles pursuant to 2003 Iowa Code ~~Supplement section~~ sections 8A.362, and ~~Iowa Code section~~ 321.19(1).

ITEM 8. Amend rule 11—4.15(8A,22) as follows:

11—4.15(8A,22) Other groups of records. This rule describes groups of records maintained by the department other than record systems retrieved by individual identifiers as defined in rule 11—4.1(8A,22). The records listed may contain information about individuals. These records are routinely available to the public, subject to costs. Unless otherwise designated, the authority for the

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

department to maintain the record is provided by ~~2003 Iowa Code Supplement~~ chapter 8A. All records may be stored on paper, microfilm, tape or in automated data processing systems unless otherwise noted.

4.15(1) to 4.15(5) No change.

4.15(6) *Appeal decisions and advisory opinions.* All final orders, decisions and opinions are open to the public except for information that is confidential according to rule 11—4.5(8A,17A,22) or subrule 4.13(2). These records, collected under the authority of ~~2003 Iowa Code Supplement chapter 8A,~~ and Iowa Code chapters 8A, 19B, 20, 70A, 85, 85A, 85B, 91A, 97A, 97B, 97C, and 509A₂ may contain confidential information about individuals.

4.15(7) to 4.15(21) No change.

ITEM 9. Amend subrule 5.1(1) as follows:

5.1(1) *Filing.* Any person or agency may file a petition for adoption of rules or request for review of rules with the Department of Administrative Services Department, Office of the Director, Hoover State Office Building, Third Floor, Des Moines, Iowa 50319. A petition is deemed filed when it is received by the department. The department shall provide the petitioner with a file-stamped copy of the petition if the petitioner provides the department an extra copy for this purpose. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

<u>DEPARTMENT OF ADMINISTRATIVE SERVICES DEPARTMENT</u>		
Petition by (Name of Petitioner) for the (adoption, amendment, or repeal) of rules relating to (state the subject matter).	}	PETITION FOR RULE MAKING

The petition must provide the following information:

a. to f. No change.

ITEM 10. Amend ~~11—Chapter 5~~, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~chapter~~ chapters 8A and 17A and ~~2003 Iowa Code Supplement chapter 8A.~~

ITEM 11. Amend subrule 6.4(3) as follows:

6.4(3) *Copies of notices.* Persons desiring to receive copies of future Notices of Intended Action by subscription must file with the department a written request indicating the name and address to which such notices should be sent. Within seven days after submission of a Notice of Intended Action to the administrative rules coordinator for publication in the Iowa Administrative Bulletin, the agency shall mail or electronically transmit a copy of that notice to subscribers who have filed a written request for either mailing or electronic transmittal with the agency for Notices of Intended Action. The written request shall be accompanied by payment of the subscription price which may cover the full cost of the subscription service, including its administrative overhead and the cost of copying and mailing the Notices of Intended Action for a period of one year. Inquiries regarding the subscription price should be directed to the Department of Administrative Services Department, Office of the Director, Hoover State Office Building, ~~Level A-South~~ Third Floor, Des Moines, Iowa 50319.

ITEM 12. Amend subrule 6.11(1) as follows:

6.11(1) *General.* When requested by a person, either prior to the adoption of a rule or within 30 days after its publication in the Iowa Administrative Bulletin as an adopted rule, the department shall issue a concise statement of reasons for the rule. Requests for such a statement must be in writing and be delivered to the Rules Administrator, Department of Administrative Services Department, Hoover State Office Building, ~~Level A-South~~ Third Floor, Des Moines, Iowa 50319. The request should indicate whether the statement is sought for all or only a specified part of the rule. Requests will be considered made on the date received.

ITEM 13. Amend subrule 6.12(2), introductory paragraph, as follows:

6.12(2) *Incorporation by reference.* The department may incorporate by reference in a proposed or adopted rule, and without causing publication of the incorporated matter in full, all or any part of a code,

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

circumstances of a statute, rule, or order within the primary jurisdiction of the Department of Administrative Services Department, Hoover State Office Building, Third Floor, Des Moines, Iowa 50319, Attn: Legal Counsel. A petition is deemed filed when it is received by that office. The department of administrative services department shall provide the petitioner with a file-stamped copy of the petition if the petitioner provides the department an extra copy for this purpose. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

<u>DEPARTMENT OF ADMINISTRATIVE SERVICES DEPARTMENT</u>		
Petition by (Name of Petitioner) for a Declaratory Order on (Cite the provisions of law involved).	}	PETITION FOR DECLARATORY ORDER

The petition must provide the following information:

- 1. to 8. No change.

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

ITEM 19. Amend rule 11—8.2(17A) as follows:

11—8.2(17A) Notice of petition. Within 15 business days after receipt of a petition for a declaratory order, the department of administrative services department shall give notice of the petition to all persons not served by the petitioner pursuant to rule 11—8.6(17A) to whom notice is required by any provision of law. The department of administrative services department may also give notice to any other persons deemed appropriate.

ITEM 20. Amend rule 11—8.3(17A) as follows:

11—8.3(17A) Intervention.

8.3(1) Persons who qualify under any applicable provision of law as an intervenor and who file a petition for intervention within 20 days of the filing of a petition for declaratory order and before the 30-day time for department action under rule 11—8.8(17A) shall be allowed to intervene in a proceeding for a declaratory order.

8.3(2) No change.

8.3(3) A petition for intervention shall be filed with the department of administrative services department. Such a petition is deemed filed when it is received by the department. The department of administrative services department will provide the petitioner with a file-stamped copy of the petition for intervention if the petitioner provides an extra copy for this purpose. A petition for intervention must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

<u>DEPARTMENT OF ADMINISTRATIVE SERVICES DEPARTMENT</u>		
Petition by (Name of Original Petitioner) for a Declaratory Order on (Cite the provisions of law cited in original petition).	}	PETITION FOR INTERVENTION

The petition for intervention must provide the following information:

- 1. to 6. No change.

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

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

ITEM 21. Amend rule 11—8.4(17A) as follows:

11—8.4(17A) Briefs. The petitioner or any intervenor may file a brief in support of the position urged. The department of administrative services ~~department~~ may request a brief from the petitioner, any intervenor, or any other person concerning the questions raised.

ITEM 22. Amend rule 11—8.5(17A) as follows:

11—8.5(17A) Inquiries. Inquiries concerning the status of a declaratory order proceeding may be made to the legal counsel for the Department of Administrative Services ~~Department~~, Hoover State Office Building, Third Floor, Des Moines, Iowa 50319.

ITEM 23. Amend subrule 8.6(2) as follows:

8.6(2) Filing—when required. All petitions for declaratory orders, petitions for intervention, briefs, or other papers in a proceeding for a declaratory order shall be filed with the Director's Office, Department of Administrative Services ~~Department~~, Hoover State Office Building, Third Floor, Des Moines, Iowa 50319, Attn: Legal Counsel. All petitions, briefs, or other papers that are required to be served upon a party shall be filed simultaneously with the department.

ITEM 24. Amend rule 11—8.7(17A) as follows:

11—8.7(17A) Consideration. Upon request by petitioner, the department of administrative services ~~department~~ shall schedule a brief and informal meeting between the original petitioner, all intervenors, and the department to discuss the questions raised. The department of administrative services ~~department~~ may solicit comments from any person on the questions raised. Also, comments on the questions raised may be submitted to the department by any person.

ITEM 25. Amend subrule 8.9(1) as follows:

8.9(1) The department shall not issue a declaratory order where prohibited by Iowa Code section 17A.9(1), and may refuse to issue a declaratory order on some or all questions raised for the following reasons:

- a. No change.
- b. The petition does not contain facts sufficient to demonstrate that the petitioner will be aggrieved or adversely affected by the failure of the department of administrative services ~~department~~ to issue an order.
- c. The department of administrative services ~~department~~ does not have jurisdiction over the questions presented in the petition.
- d. to i. No change.
- j. The petitioner requests the department of administrative services ~~department~~ to determine whether a statute is unconstitutional on its face or whether any of the other conditions under Iowa Code section 17A.19 have been met.
- k. No change.

ITEM 26. Amend rule 11—8.12(17A) as follows:

11—8.12(17A) Effect of a declaratory order. A declaratory order has the same status and binding effect as a final order issued in a contested case proceeding. It is binding on the department of administrative services ~~department~~, the petitioner, and any intervenors and is applicable only in circumstances where the relevant facts and the law involved are indistinguishable from those on which the order was based. As to all other persons, a declaratory order serves only as precedent and is not binding on the department. The issuance of a declaratory order constitutes final agency action on the petition.

ITEM 27. Amend **11—Chapter 8**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~chapter~~ chapters 8A and 17A and 2003 Iowa Code Supplement ~~chapter 8A~~.

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

ITEM 28. Amend rule **11—9.1(17A,8A)**, definition of “Department,” as follows:

“*Department*” or “*DAS*” means the department of administrative services authorized by ~~2003 Iowa Code Supplement~~ chapter 8A.

ITEM 29. Amend subrule 9.4(4) as follows:

9.4(4) *Special waiver or variance not permitted.* The compensation rates for publication in a newspaper for any notice, order or citation or other publication required or allowed by law as determined by the state printing administrator pursuant to Iowa Code section 618.11 shall not be waived or varied. The procedure established in this chapter does not apply to waiver or variance of contractual terms or conditions; contracts shall be waived or varied only upon their own terms. These rules do not apply to the Terrace Hill commission established in ~~2003 Iowa Acts, chapter 145, section 41, Iowa Code section 8A.326~~ or rules adopted by the commission unless these rules are adopted by the Terrace Hill commission.

ITEM 30. Amend **11—Chapter 9**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 8A and section 17A.9A and ~~2003 Iowa Code Supplement chapter 8A.~~

ITEM 31. Amend rule **11—41.1(8A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 8A.514 and 17A.4 and ~~Iowa Code Supplement section 8A.514.~~

ITEM 32. Amend paragraph **41.5(4)“a”** as follows:

a. Instate In state. Where use of a privately owned vehicle is authorized by rule 11—103.4(8A), reimbursement shall be on a mileage basis at a rate established by the director pursuant to Iowa Code ~~Supplement~~ section 8A.363. Reimbursement for travel at the official domicile will be reimbursed at a rate (established by the director pursuant to Iowa Code ~~Supplement~~ section 8A.363) per mile if the purpose of the travel is official business. The per-mile reimbursement includes all costs incurred in connection with the operation of the vehicle.

ITEM 33. Amend rule 11—41.8(8A) as follows:

11—41.8(8A) State-owned vehicle. Any expense other than parking should not be claimed on the expense voucher but should be reimbursed through procedures established by ~~the vehicle dispatcher’s office~~ fleet services.

ITEM 34. Amend **11—Chapter 41**, implementation sentence, as follows:

Rules 11—41.2(8A) to 11—41.8(8A) are intended to implement Iowa Code ~~Supplement~~ sections 8A.506 to 8A.519.

ITEM 35. Amend rule 11—42.1(8A) as follows:

11—42.1(8A) Scope and application. The department of administrative services, state accounting enterprise, is responsible for the payment of money due based on contracts with vendors for goods and services entered into by all state agencies and governmental subdivisions. Consequently, the department has implemented rules and policies to ease the administration of the payment of all obligations owed to third parties. The policies and procedures governing the payment of these obligations are set forth in the Department of Administrative Services, State Accounting Enterprise, Accounting Policies and Procedures Manual. This manual may be accessed at das.iowa.gov, or copies of the appropriate provisions may be requested and obtained by mail from State Accounting Enterprise, Department of Administrative Services, Hoover State Office Building, Third Floor, Des Moines, Iowa 50319. ~~Provisions of the manual that affect persons outside state government are as follows:~~

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

SUBJECT MATTER	MANUAL PROVISION NUMBER
Claims:	
Refund of fees	235.550
Late vendors	235.150
Signature requirements on claims	204.150
Original invoice	204.200
Claims requirements	204.400, 204.450
Contracting—personnel services	240.102
Court-ordered claims	235.600(2)
Direct deposit of payments	270.401
Expenses of volunteers	230.500
General service contracts	240.101
Gifts to public employees	240.200
Income offset	270.850
Interest on claims	230.250
Maintenance and rental/lease agreements	240.103
Personal service contracts	240.102
Settlements—former employees	240.500
Taxes:	
Refund of motor fuel	230.150
Refund of tax to contractors	230.150
States exempt from sales tax	230.150
Travel expenses—prospective employees	204.250
Vendor issues:	
Claims requirements	204.400, 204.450
Late vendors	235.150
Nonresident alien vendors	240.400
Outdated invoices	260.250
Original invoice	204.200
Purchasing orders and payment	260.180
Refund of fees	235.550
Signature requirements on claims	204.150
Vendor codes	270.450
Warrants:	
Canceled warrants	270.550
Duplicate warrants	270.600
Forged warrants	270.750
Incorrect warrants	270.250
Outdated warrants	270.500
Stop payment on warrant	270.650

This rule is intended to implement Iowa Code Supplement section 8A.502.

ITEM 36. Amend rule **11—48.1(8A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code Supplement section 8A.514.

ITEM 37. Amend rule 11—48.2(8A) as follows:

11—48.2(8A) Prepayment of expenses. The following expenses may be prepaid without prior written approval from the department:

1. to 4. No change.

~~5. Yearly memberships approved by the executive council.~~

~~6.~~ 5. Maintenance contracts that have been negotiated with a clause requiring prepayment.

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

~~7. 6.~~ If there is documentation attached to the claim which indicates the registration must be paid prior to the function, or there is documentation attached which indicates there is a savings of at least current general fund earning rate of the state treasurer if the registration is paid in advance.

This rule is intended to implement Iowa Code ~~Supplement~~ section 8A.514.

ITEM 38. Amend rule ~~11—48.3(8A)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~Supplement~~ section 8A.514.

ITEM 39. Amend rule ~~11—48.4(8A)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~Supplement~~ section 8A.514.

ITEM 40. Amend rule 11—55.2(8A) as follows:

11—55.2(8A) Removal of names from eligible lists. The director may remove names from an eligible list for a particular job class(es) for any of the following reasons in addition to those cited in 11—subrule 54.2(6):

1. to 8. No change.

9. Violation of any of the provisions of Iowa Code ~~Supplement~~ chapter 8A or these rules. Applicants removed for this reason shall be notified in writing by the director within five workdays following removal. Appeal of removal for this reason shall be in accordance with 11—subrule 61.2(4).

10. No change.

ITEM 41. Amend ~~11—Chapter 55~~, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~Supplement~~ sections 8A.401, 8A.402, 8A.411, 8A.413, 8A.417, 8A.418, 8A.453, 8A.455, 8A.456 and 8A.458.

ITEM 42. Amend ~~11—Chapter 56~~, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~Supplement~~ sections 8A.401, 8A.402, 8A.411, 8A.413, 8A.414, 8A.416 to 8A.418, 8A.453, 8A.456 and 8A.458.

ITEM 43. Amend ~~11—Chapter 58~~, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~Supplement~~ sections 8A.401, 8A.411, 8A.413, 8A.415 to 8A.418, 8A.453, 8A.456 and 8A.458.

ITEM 44. Amend ~~11—Chapter 59~~, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~Supplement~~ sections 8A.401, 8A.402, 8A.411, 8A.413, 8A.414, 8A.417, 8A.418, 8A.439, 8A.453, 8A.456 and 8A.458.

ITEM 45. Amend ~~11—Chapter 61~~, implementation sentence, as follows:

These rules are intended to implement ~~2003~~ Iowa Code ~~Supplement~~ section 8A.413.

ITEM 46. Amend ~~11—Chapter 62~~, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~Supplement section~~ sections 8A.413 and ~~Iowa Code section~~ 8E.207.

ITEM 47. Amend subrule ~~64.6(1)~~, definitions of “Investment provider” and “Plan,” as follows:

“*Investment provider*” means a company authorized under this rule to issue an account or administer the records of such an account or accounts under the deferred compensation plan authorized by Iowa Code ~~section sections~~ sections 8A.402 and 509A.12 and ~~2003 Iowa Code Supplement section~~ 8A.402.

“*Plan*” means the state of Iowa employee contribution plan for deferred compensation as authorized by Internal Revenue Code Section 457; and Iowa Code ~~section sections~~ sections 8A.434 and 509A.12, and ~~2003 Iowa Code Supplement section~~ 8A.434.

ITEM 48. Amend rule 11—65.2(8A) as follows:

11—65.2(8A) Restrictions on political activity of employees. All employees are prohibited from:

65.2(1) to 65.2(4) No change.

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

Employees of the alcoholic beverages division of the department of commerce, in addition to the foregoing subrules, are subject to the prohibitions set forth in Iowa Code section ~~123.18~~ 123.13. All employees are further subject to the provisions of Iowa Code chapter 721.

ITEM 49. Amend **11—Chapter 65**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~Supplement~~ sections 8A.413, 8A.416 and 8A.418.

ITEM 50. Amend subrule 66.5(2) as follows:

66.5(2) Employees may contact the office of ~~the Iowa citizens' aide at (888)426-6283~~ ombudsman to report violations of this rule.

ITEM 51. Amend **11—Chapter 66**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~Supplement section~~ sections 8A.413 and ~~Iowa Code section~~ 68B.4.

ITEM 52. Amend **11—Chapter 71**, implementation sentence, as follows:

These rules are intended to implement ~~2003 Iowa Code Supplement~~ section 8A.432.

ITEM 53. Amend rule 11—100.4(8A) as follows:

11—100.4(8A) Use and scheduling of capitol complex facilities.

100.4(1) *Scheduling conference rooms.* Conference rooms, auditoriums and common areas within the capitol complex are for use by state agencies, boards and commissions for authorized purposes only. Arrangements may be made by contacting the agency responsible for scheduling the facility. The department of administrative services is responsible for scheduling all common areas not under control of other agencies. Questions about usage shall be resolved by the director of the responsible agency. ~~General questions about scheduling may be directed to the department's customer service center at (515)242-5120.~~

100.4(2) and 100.4(3) No change.

100.4(4) *Event request.* State agencies or the general public may request use of capitol complex facilities, grounds or parking lots for public events by ~~contacting the director and~~ completing an application ~~provided by~~ on the department website (das.iowa.gov). This shall not be interpreted as an infringement on the right of assembly and petition guaranteed by Section 20, Article I, Constitution of Iowa.

a. to c. No change.

100.4(5) to 100.4(13) No change.

This rule is intended to implement ~~2003 Iowa Code Supplement~~ section 8A.322.

ITEM 54. Amend rule **11—100.5(8A)**, implementation sentence, as follows:

This rule is intended to implement ~~2003 Iowa Code Supplement section~~ sections 8A.322 and ~~Iowa Code section~~ 303.9 and chapter 216D.

ITEM 55. Amend **11—Chapter 100**, implementation sentence, as follows:

These rules are intended to implement ~~2003 Iowa Code Supplement~~ sections 8A.104, 8A.321, and 8A.322 and ~~Iowa Code section~~ 303.9 and chapters ~~142B~~ 142D and 216D.

ITEM 56. Amend paragraph **101.12(4)“c”** as follows:

c. Instructs the operator that the operator is required for each violation to pay \$10 to the department of administrative services within 10 days by submitting the ticket or the ticket number and payment in cash or a check or money order payable to the Department of Administrative Services, ~~Customer Service Center~~, Hoover State Office Building, ~~Level A~~ Third Floor, Des Moines, Iowa 50319.

ITEM 57. Amend **11—Chapter 101**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~Supplement~~ sections 8A.322 and 8A.323.

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

ITEM 58. Amend rule 11—102.3(8A) as follows:

11—102.3(8A) Location. The state printing office is located at the capitol complex in Des Moines, Iowa. Correspondence shall be addressed to State Printing, Department of Administrative Services, ~~Grimes Hoover~~ State Office Building, Des Moines, Iowa 50319.

ITEM 59. Amend rule 11—102.4(8A), introductory paragraph, as follows:

11—102.4(8A) State printing. The state printing operation maintains a centralized printing facility in the ~~Grimes Hoover~~ State Office Building with satellite offices in other locations not necessarily at the capitol complex.

ITEM 60. Amend rule **11—102.7(8A,49)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~Supplement~~ section 49.54.

ITEM 61. Amend rule 11—102.8(8A,618) as follows:

11—102.8(8A,618) Fees paid to newspapers. The fees paid to newspapers for official publications, notices, orders, citations or other publications required or allowed by law shall not exceed the rate set June 1 of each year by the director. The director shall calculate a new rate for the following fiscal year as prescribed in Iowa Code ~~Supplement~~ section 618.11 and shall publish this rate as a notice in the Iowa Administrative Bulletin prior to the first day of the following calendar month. The new rate shall be effective on the first day of the calendar month following its publication. The calculation and publication of the rate by the director shall be exempt from the provisions of Iowa Code chapters 17A and 25B.

This rule is intended to implement Iowa Code ~~Supplement~~ section 618.11.

ITEM 62. Amend rule **11—103.2(8A)**, definition of “Pool car,” as follows:

“Pool car” means a vehicle assigned to the state of Iowa, department of administrative services, ~~division of fleet and mail pool~~ fleet services.

ITEM 63. Amend subrule 103.16(3) as follows:

103.16(3) Agencies shall ensure that their flexible fuel vehicles that are capable of operating on 85 percent ethanol (E85) use E85 fuel whenever an E85 fueling facility is available to the driver when fuel is needed. ~~E85~~ E85 fuel may be procured at a retail establishment if a state fueling facility is not readily available. If an E85 facility is not readily available, the driver shall not completely fill the tank with fuel when a lesser quantity will be adequate to complete the trip to an E85 fueling site.

ITEM 64. Amend **11—Chapter 119**, implementation sentence, as follows:

These rules are intended to implement 2003 Iowa Code ~~Supplement~~ sections 8.47 and 8A.104.

[Filed 9/19/18, effective 11/14/18]

[Published 10/10/18]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 10/10/18.

ARC 4054C

BANKING DIVISION[187]

Adopted and Filed

Rule making related to organizational structure

The Iowa Division of Banking (IDOB) hereby amends Chapter 1, “Description of Organization,” Iowa Administrative Code.

Legal Authority for Rule Making

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

BANKING DIVISION[187](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 17A.3 and 524.208.

Purpose and Summary

These amendments reflect the Iowa Division of Banking's compliance with Iowa Code section 17A.7(2), which states that, as of July 1, 2012, "over each five-year period of time, an agency shall conduct an ongoing and comprehensive review of all of the agency's rules [and t]he goal of the review is the identification and elimination of all rules of the agency that are outdated, redundant, or inconsistent or incompatible with statute or its own rules or those of other agencies." The amendments to Chapter 1 make changes so that rule 187—1.3(17A,524) more accurately reflects the current organizational structure of the IDOB.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 15, 2018, as **ARC 3947C**. No public comments were received. Since publication of the Notice, minor corrections were made to ensure accuracy.

Adoption of Rule Making

This rule making was adopted by the Superintendent of Banking on September 19, 2018.

Fiscal Impact

No current fees are being changed, and no new fees are being added; therefore, the IDOB has concluded that these amendments will not have a fiscal impact to the State of Iowa.

Jobs Impact

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, the IDOB has concluded that these amendments will have no impact on jobs in Iowa.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the IDOB for a waiver of the discretionary provisions, if any, pursuant to 187—Chapter 12.

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 14, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend rule 187—1.3(17A,524), introductory paragraph, as follows:

187—1.3(17A,524) Division of banking. The division of banking is a subdivision of the department of commerce and consists of the superintendent and those employees who discharge the duties and

BANKING DIVISION[187](cont'd)

responsibilities imposed upon the superintendent by the laws of this state. The superintendent has general control, supervision and regulatory authority over all entities which the division is given authority to regulate pursuant to the Code of Iowa. The division consists of ~~two~~ three separate bureaus: the bank bureau, the finance bureau, and the professional licensing and regulation bureau. The bank bureau has primary responsibility relating to the supervision, regulation, and chartering of state banks. The finance bureau has primary responsibilities relating to the supervision, regulation, and licensing of appraisal management companies, closing agents, debt management businesses, delayed deposit services businesses, industrial loan companies, money services businesses, mortgage bankers, mortgage brokers, mortgage loan originators, real estate appraisers, and regulated loan companies; industrial loan companies; mortgage bankers, brokers, and registrants; delayed deposit service licensees; persons engaged in the business of selling written instruments; and persons engaged in the business of debt management. The professional licensing and regulation bureau has primary responsibilities relating to the regulation and licensing of specified professions by providing administrative support to and coordinating the activities of the following licensing boards: the Iowa accountancy examining board, the architectural examining board, the engineering and land surveying examining board, the interior design examining board, the landscape architectural examining board, and the real estate commission.

ITEM 2. Amend subrule 1.3(1) as follows:

1.3(1) Organization—superintendent. The superintendent is the administrator of the division. The superintendent is appointed by the governor, by and with the approval of the senate, for a term of four years. The superintendent's office is located at 200 East Grand Avenue, Suite 300, Des Moines, Iowa 50309-1827. The superintendent is assisted by the following officials who are responsible to the superintendent:

a. Bank bureau chief. The bank bureau chief performs such duties as the superintendent prescribes, including general supervision of all bank examining personnel, administration and supervision of regulatory examinations, and administration and supervision of all matters relating to the exercise of banking powers authorized by the laws of this state. ~~During the absence or disability of the superintendent, or as directed by the superintendent, a deputy superintendent who possesses the powers and performs the duties of the superintendent may be appointed by the superintendent.~~

b. Bank analysts. Bank analysts perform such duties as the superintendent prescribes, including advanced technical analysis and review of examination and financial reports of banks and bank holding companies; assessing, measuring, and monitoring the risk conditions in state banks and bank holding companies; assisting the superintendent and banking council in the analysis of applications submitted to the division for approval; and the review and analysis of bank examination reports.

c. Finance bureau chief. The finance bureau chief performs duties prescribed by the superintendent, including general supervision over all matters relating to the licensing and supervision of appraisal management companies, closing agents, debt management businesses, delayed deposit services businesses, industrial loan companies, money services businesses, mortgage bankers, mortgage brokers, mortgage loan originators, real estate appraisers, and regulated loan companies; industrial loan companies; mortgage bankers, brokers, and registrants; delayed deposit service licensees; persons engaged in the business of debt management; and persons engaged in the sale of written instruments.

d. Comptroller Chief operating officer. The ~~comptroller~~ chief operating officer performs duties prescribed by the superintendent, including management of the administrative functions, information technology needs, and fiscal affairs of the division of banking. The ~~comptroller~~ chief operating officer is also responsible for administration of personnel policies, work rules, payrolls, and employee benefits for all employees of the division.

e. Examiners. Regulatory Each examiner performs duties prescribed by the superintendent in a manner consistent with the laws of this state and may be predominantly trained in an area within the jurisdiction of the superintendent. Bank examinations are performed by examining personnel situated in examination regions throughout the state. Each region is headed by a supervisor regional manager who is assisted by a staff of examiners. Each examiner performs duties prescribed by the superintendent in a manner consistent with the laws of this state and may be predominantly trained in the specialized fields

BANKING DIVISION[187](cont'd)

~~of commercial bank and bank holding company regulation, trust asset administration, finance company and mortgage banking regulation, data processing, and other areas within the jurisdiction of the office of the superintendent.~~

f. Professional licensing and regulation bureau chief. The professional licensing and regulation bureau chief performs such duties as the superintendent prescribes, including budgetary and personnel matters related to the licensing and regulation of several professions, by providing administrative support to and coordinating the activities of the following licensing boards: the Iowa accountancy examining board created pursuant to Iowa Code chapter 542, the engineering and land surveying board created pursuant to Iowa Code chapter 542B, the real estate commission created pursuant to Iowa Code chapter 543B, the architectural examining board created pursuant to Iowa Code chapter 544A, the landscape architectural examining board created pursuant to Iowa Code chapter 544B, and the interior design examining board created pursuant to Iowa Code chapter 544C.

[Filed 9/19/18, effective 11/14/18]

[Published 10/10/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/10/18.

ARC 4055C

BANKING DIVISION[187]

Adopted and Filed

Rule making related to application procedures

The Iowa Division of Banking (IDOB) hereby amends Chapter 2, "Application Procedures," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted 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 chapter 524.

Purpose and Summary

These amendments reflect the Iowa Division of Banking's compliance with Iowa Code section 17A.7(2), which states that, as of July 1, 2012, "over each five-year period of time, an agency shall conduct an ongoing and comprehensive review of all of the agency's rules [and t]he goal of the review is the identification and elimination of all rules of the agency that are outdated, redundant, or inconsistent or incompatible with statute or its own rules or those of other agencies." The amendments to Chapter 2 are intended to eliminate outdated requirements.

The IDOB is eliminating a requirement stating that the Superintendent must determine that a reasonable share price is being paid in a cash out merger or reverse stock split, because the IDOB is able to fulfill its statutory duty to protect the interests of shareholders without engaging in the detailed analysis of these transactions currently required by rule. The IDOB is rescinding rules regarding the licensing of debt management companies and is separately promulgating a new Chapter 20 (**ARC 4061C**, IAB 10/10/18) applicable to debt management companies. The IDOB is eliminating a rule that imposes a notice and publication requirement in association with applications for which no statutory notice and publication requirement exists. The IDOB has concluded that this type of notice requirement is rarely invoked and adds unnecessary burden to the application process. The IDOB is adding rule language to clarify that an applicant may not declare the entire contents of an application confidential.

BANKING DIVISION[187](cont'd)

Finally, the IDOB is making several corrections to update references to statutes and certain federal guidance documents.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 15, 2018, as **ARC 3949C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Superintendent of Banking on September 19, 2018.

Fiscal Impact

No current fees are being changed, and no new fees are being added; therefore, the IDOB has concluded that these amendments will not have a fiscal impact to the State of Iowa.

Jobs Impact

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, the IDOB has concluded that these amendments will have no impact on jobs in Iowa.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the IDOB for a waiver of the discretionary provisions, if any, pursuant to 187—Chapter 12.

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 14, 2018.

The following rule-making actions are adopted:

- ITEM 1. Rescind and reserve subrule **2.3(6)**.
- ITEM 2. Amend rule **187—2.5(17A,524)**, implementation sentence, as follows:
This rule is intended to implement Iowa Code ~~sections~~ section 524.312 ~~and 524.1202~~.
- ITEM 3. Rescind and reserve subrule **2.7(3)**.
- ITEM 4. Rescind and reserve subrule **2.7(4)**.
- ITEM 5. Rescind and reserve rule **187—2.9(17A)**.
- ITEM 6. Amend rule 187—2.12(17A,524) as follows:

187—2.12(17A,524) Supplemental application procedures.

2.12(1) Scope. ~~Subrules 2.12(2) to 2.12(14) contain~~ This rule contains procedures by which the superintendent may reach informed decisions with respect to those applications ~~for~~ which the superintendent shall deem a public hearing necessary. These procedures provide a method by which all

BANKING DIVISION[187](cont'd)

persons interested in the subject matter of such applications or other cases in which a public hearing is deemed necessary may present their views. Nothing contained herein shall be construed to prevent interested persons from presenting their views in a more informal manner when deemed appropriate by the superintendent or to prevent the superintendent from conducting such other investigation as may be deemed appropriate.

~~2.12(2) *Notice of filing of application.* Except in the case of proposed transactions where notice by publication is governed by statute, the applicant shall, within 15 days after the superintendent has notified the applicant in writing that an application has been accepted for processing, publish one time in a newspaper of general circulation in the community in which the applicant proposes to engage in business a notice containing the name of the applicant or applicants, the subject matter of the application, and the date upon which the application was accepted for processing. Immediately thereafter, the applicant shall furnish the superintendent with proof of such publication. The superintendent may solicit, in whatever manner deemed appropriate, comments from banks which may be affected by or have an interest in the pending application.~~

~~2.12(3) 2.12(2) *Public file.* The public file in each case shall consist of the application with supporting data and supplementary information with the exception of material deemed by the superintendent to be confidential. In addition, the public file shall contain all data and information submitted by interested persons in favor of or in opposition to such application, excluding any material deemed by the superintendent to be confidential. The superintendent or the superintendent's designee shall not deem information confidential for purposes of the two immediately preceding sentences unless the person submitting the information requests that such information be deemed confidential. All factual information contained in any internal investigation report made by a bank examiner shall also be made a part of the public file, unless deemed confidential by the superintendent. The person submitting the application may not request that the entire application be deemed confidential.~~

~~a. and b. No change.~~

~~2.12(4) *Written comments and requests for an opportunity to be heard.* Within ten days after the notice of publication described in subrule 2.12(2), any interested person may submit to the superintendent written comments concerning the application or a written request for an opportunity to be heard before the superintendent or the superintendent's designee. The request shall state the nature of the issues or facts to be presented and the reasons why written submissions would be insufficient to make an adequate presentation to the superintendent. In the absence of a request, the superintendent, when it is believed to be in the public interest, may order a hearing to be held.~~

~~2.12(5) 2.12(3) *Place of hearing.* Hearings granted by the superintendent shall be heard in the office of the superintendent. The superintendent, in any matter, reserves the right to conduct hearings at any location deemed to be appropriate.~~

~~2.12(6) 2.12(4) *Date of hearing.* An opportunity to be heard shall be given as soon as practicable after ordered.~~

~~2.12(7) 2.12(5) *Notice of hearing.* The notice given by the superintendent concerning the hearing shall set forth the subject matter of the application, the legal authority for such hearing, and the date, time, and place of the hearing. The notice shall be sent to the person or persons requesting the hearing, to the applicant and to other interested persons who have sent written comments to the superintendent.~~

~~2.12(8) 2.12(6) *Attendance at hearing.* Each person who wishes to be heard shall notify the superintendent within five days after the date of the notice described in subrule 2.12(7) 2.12(5) of their the person's intention to attend and shall submit the number and names of witnesses to be presented.~~

~~2.12(9) 2.12(7) *Presiding officer.* The presiding officer at the hearing shall be the superintendent or such other person as may be designated by the superintendent.~~

~~2.12(10) 2.12(8) *Hearing rules.* The applicant and each participant may make opening statements of a length within the discretion of the presiding officer. Such opening statements should concisely state what the participant intends to show. The applicant shall have the opportunity to present a statement first. Following the opening statements, the applicant shall present data and materials, oral or documentary. Following the applicant's presentation, the persons protesting the application shall present their data and materials, oral or documentary. The protesters may agree, with the approval of the presiding officer,~~

BANKING DIVISION[187](cont'd)

to have one of their number make their presentation. Following the evidence of the applicant and the protester, the presiding officer may recognize other interested persons who may present their views with respect to the application under consideration. After all the above presentations have been concluded, the participants before the panel may make short and concise summary statements reviewing their ~~position~~ positions. The applicant shall present a concluding summary statement.

a. to c. No change.

d. A transcript of each proceeding shall be arranged for by the ~~superintendent's office~~ person or persons requesting the opportunity to be heard, with all expenses of such service, including the furnishing of one copy of the transcript to the superintendent, being borne by the person or persons requesting the opportunity to be heard, except for hearings ordered by the superintendent's office on its own volition, in which case, the applicant will bear the expense of furnishing transcripts of the record.

e. The public file described in subrule ~~2.12(3)~~ 2.12(2) shall automatically be deemed a part of the record of these proceedings, as well as all evidence submitted and the transcript described in paragraph ~~"d" of this subrule.~~ 2.12(8) "d."

~~2.12(11)~~ 2.12(9) *Closing of the public file.* If requested by any participant, the public file shall remain open for five days following receipt of the transcript by the superintendent, during which time the applicant and protesters may submit additional written statements. A copy of any statement so submitted during this period of time shall also be sent simultaneously to the other persons represented at the hearing.

~~2.12(12)~~ Reserved.

~~2.12(13)~~ 2.12(10) *Decision.* The applicant and all persons so requesting in writing shall be notified of the final disposition of the application by the superintendent.

~~2.12(14)~~ 2.12(11) *Computation of time.* In computing any period of days provided for in this rule, the day of the event from which the period begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday. As used in this subrule, "legal holiday" means a day on which the office of the superintendent remains closed.

This rule is intended to implement Iowa Code sections 17A.3, 524.305, 524.312, 524.1201, 524.1303, and 524.1403.

ITEM 7. Rescind paragraph **2.16(2)"e."**

ITEM 8. Rescind and reserve subrule **2.17(3)**.

[Filed 9/19/18, effective 11/14/18]

[Published 10/10/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/10/18.

ARC 4056C

BANKING DIVISION[187]

Adopted and Filed

Rule making related to public records and fair information practices

The Iowa Division of Banking (IDOB) hereby amends Chapter 7, "Public Records and Fair Information Practices," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 17A.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 22.11.

BANKING DIVISION[187](cont'd)

Purpose and Summary

These amendments reflect the Iowa Division of Banking's compliance with Iowa Code section 17A.7(2), which states that, as of July 1, 2012, "over each five-year period of time, an agency shall conduct an ongoing and comprehensive review of all of the agency's rules [and t]he goal of the review is the identification and elimination of all rules of the agency that are outdated, redundant, or inconsistent or incompatible with statute or its own rules or those of other agencies." The amendments to Chapter 7 are intended to clarify the meaning of the chapter and to eliminate outdated requirements.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 15, 2018, as **ARC 3948C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Superintendent of Banking on September 19, 2018.

Fiscal Impact

No current fees are being changed, and no new fees are being added; therefore, the IDOB has concluded that these amendments will not have a fiscal impact to the State of Iowa.

Jobs Impact

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, the IDOB has concluded that these amendments will have no impact on jobs in Iowa.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the IDOB for a waiver of the discretionary provisions, if any, pursuant to 187—Chapter 12.

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 14, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend **187—Chapter 7**, preamble, as follows:

The Iowa division of banking hereby adopts, with the following exceptions and amendments, ~~rules of the Governor's Task Force on the 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 on the Iowa general assembly's website at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf~~.

ITEM 2. Amend subrule 7.15(6) as follows:

7.15(6) Policy manuals. The agency's employees' manual, containing information concerning policies and procedures for programs administered by the agency, is available in the office of the

BANKING DIVISION[187](cont'd)

agency. Subscriptions to all or part of the employees' manual are available at the cost of production and handling. Requests for subscription information should be addressed to Iowa Division of Banking, 200 East Grand Avenue, Suite 300, Des Moines, Iowa 50309-1827. Policy manuals do not contain information about individuals.

[Filed 9/19/18, effective 11/14/18]

[Published 10/10/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/10/18.

ARC 4057C

BANKING DIVISION[187]

Adopted and Filed

Rule making related to general banking powers

The Iowa Division of Banking (IDOB) hereby amends Chapter 8, "General Banking Powers," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted 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 sections 12B.10 and 524.103.

Purpose and Summary

These amendments reflect the Iowa Division of Banking's compliance with Iowa Code section 17A.7(2), which states that, as of July 1, 2012, "over each five-year period of time, an agency shall conduct an ongoing and comprehensive review of all of the agency's rules [and t]he goal of the review is the identification and elimination of all rules of the agency that are outdated, redundant, or inconsistent or incompatible with statute or its own rules or those of other agencies." The amendments to Chapter 8 are intended to clarify the meaning of the chapter and to eliminate outdated requirements.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 15, 2018, as **ARC 3952C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Superintendent of Banking on September 19, 2018.

Fiscal Impact

No current fees are being changed, and no new fees are being added; therefore, the IDOB has concluded that these amendments will not have a fiscal impact to the State of Iowa.

Jobs Impact

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, the IDOB has concluded that these amendments will have no impact on jobs in Iowa.

BANKING DIVISION[187](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 IDOB for a waiver of the discretionary provisions, if any, pursuant to 187—Chapter 12.

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 14, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend rule 187—8.8(12B) as follows:

187—8.8(12B) Approved rating services. Rating services approved by the superintendent as provided by Iowa Code section 12B.10 for use by the treasurer of state and the treasurer of each political subdivision in determining qualifying commercial paper investments are Moody's Investors Services, ~~New York, New York 10007~~, and Standard & Poor's, ~~Chicago, Illinois 60606~~.

This rule is intended to implement Iowa Code section 12B.10.

ITEM 2. Amend rule 187—8.9(524) as follows:

187—8.9(524) General definition of bank. It is the superintendent's intent that the term "bank" used in Iowa Code section 524.103(8) means a corporation organized under Iowa Code chapter 524 or a corporation organized under 12 U.S.C. §21. The general definition of "bank" as set forth in Iowa Code section 524.103(8) does not include a ~~state savings association~~, federal savings association, state credit union, or federal credit union.

This rule is intended to implement Iowa Code section 524.103(8).

[Filed 9/19/18, effective 11/14/18]

[Published 10/10/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/10/18.

ARC 4058C

BANKING DIVISION[187]

Adopted and Filed

Rule making related to investment and lending powers

The Iowa Division of Banking (IDOB) hereby amends Chapter 9, "Investment and Lending Powers," Iowa Administrative Code.

Legal Authority for Rule Making

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

BANKING DIVISION[187](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 524.905 and 524.908.

Purpose and Summary

These amendments reflect the Iowa Division of Banking's compliance with Iowa Code section 17A.7(2), which states that, as of July 1, 2012, "over each five-year period of time, an agency shall conduct an ongoing and comprehensive review of all of the agency's rules [and t]he goal of the review is the identification and elimination of all rules of the agency that are outdated, redundant, or inconsistent or incompatible with statute or its own rules or those of other agencies." The amendments to Chapter 9 are intended to clarify the meaning of the chapter and to eliminate outdated requirements.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 15, 2018, as **ARC 3953C**. The IDOB received one comment from the Iowa Bankers Association (IBA) related to the Notice of Intended Action. Based on the public comment received, the IDOB has decided to make no change to paragraph 9.2(4)"b" and has revised the amendment accordingly.

Adoption of Rule Making

This rule making was adopted by the Superintendent of Banking on September 19, 2018.

Fiscal Impact

No current fees are being changed, and no new fees are being added; therefore, the IDOB has concluded that these amendments will not have a fiscal impact on the State of Iowa.

Jobs Impact

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, the IDOB has concluded that these amendments will have no impact on jobs in Iowa.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the IDOB for a waiver of the discretionary provisions, if any, pursuant to 187—Chapter 12.

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 14, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend rule 187—9.2(17A,524) as follows:

187—9.2(17A,524) Real estate lending. This rule is promulgated to provide more uniformity with the final guidelines adopted by the Federal Deposit Insurance Corporation, the Federal Reserve System, and

BANKING DIVISION[187](cont'd)

the Department of the Treasury. This rule shall apply to real estate loans either originated by the state bank or acquired by purchase, assignment, or otherwise.

9.2(1) to 9.2(3) No change.

~~9.2(4) Reserved.~~

~~9.2(5)~~ **9.2(4)** *Evidence of title.* The state bank shall obtain, when lending for the purpose of acquisition or for the purpose of refinance of acquisition when a new mortgage, deed of trust, or similar instrument is filed, ~~either one of the following:~~

a. A written legal opinion by an attorney admitted to practice in the state in which the real estate is located showing marketable title in the mortgagor and describing any existing liens and stating that the state bank's mortgage, deed of trust, or similar instrument is a lien on the real estate, ~~or.~~ An Iowa title guaranty certificate issued by the Iowa title guaranty division of the Iowa finance authority satisfies this requirement.

b. Title insurance written by an insurance company licensed to do business in the state in which the real property is located, describing any existing liens and insuring the title to the real property and the validity and enforceability of the mortgage, deed of trust, or similar instrument as a lien on the real property.

~~9.2(6) Insurance. Rescinded IAB 3/2/05, effective 4/6/05.~~

~~9.2(7) Disclosures. Rescinded IAB 3/2/05, effective 4/6/05.~~

~~9.2(8)~~ **9.2(5)** *Exceptions.* There are certain real estate transactions in which other factors significantly outweigh the need to apply the provisions of this rule. Therefore, the following transactions are exempt from this rule:

a. to e. No change.

~~9.2(9)~~ **9.2(6)** *Exempted transactions.* In addition to the exemptions set forth in subrule ~~9.2(8)~~ **9.2(5)**, it may be appropriate, in light of all relevant credit considerations, including community reinvestment factors, for state banks, in certain instances, to originate or purchase real estate loans that do not meet the requirements of this rule. State banks shall be allowed to make such loans; however, the aggregate amount of all real estate loans that fall into this category shall not exceed aggregate capital as reflected on the state bank's most recent consolidated report of condition, unless prior approval to exceed this limitation has been obtained from the superintendent. These exempted loans must be identified by the board of directors by name and outstanding balance and must be reviewed by the board no less frequently than annually. Examiners, during the course of their examinations, will determine whether these exempted loans are adequately documented and appropriate in light of overall safety and soundness considerations. No real estate loans to directors, officers, or principal shareholders or their related interests shall be allowed in the exempted category of this subrule.

This rule is intended to implement Iowa Code section 524.905.

ITEM 2. Amend paragraph **9.3(2)“k”** as follows:

k. All lease receivables shall be booked in accordance with ~~each report~~ the instructions for preparation of the consolidated reports of condition and income.

ITEM 3. Rescind paragraph **9.3(3)“b.”**

ITEM 4. Reletter paragraph **9.3(3)“c”** as **9.3(3)“b.”**

[Filed 9/19/18, effective 11/14/18]

[Published 10/10/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/10/18.

ARC 4059C**BANKING DIVISION[187]****Adopted and Filed****Rule making related to contested cases**

The Iowa Division of Banking (IDOB) hereby amends Chapter 11, “Contested Cases,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted 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 chapter 17A.

Purpose and Summary

These amendments reflect the Iowa Division of Banking’s compliance with Iowa Code section 17A.7(2), which states that, as of July 1, 2012, “over each five-year period of time, an agency shall conduct an ongoing and comprehensive review of all of the agency’s rules [and t]he goal of the review is the identification and elimination of all rules of the agency that are outdated, redundant, or inconsistent or incompatible with statute or its own rules or those of other agencies.” The amendments to Chapter 11 are intended to clarify the discovery process and applicability of the Rules of Civil Procedure in contested cases and to enable communications and submissions pertaining to a contested case via telephone, email, and other electronic means.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 15, 2018, as **ARC 3951C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Superintendent of Banking on September 19, 2018.

Fiscal Impact

No current fees are being changed, and no new fees are being added; therefore, the IDOB has concluded that these amendments will not have a fiscal impact to the State of Iowa.

Jobs Impact

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, the IDOB has concluded that these amendments will have no impact on jobs in Iowa.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the IDOB for a waiver of the discretionary provisions, if any, pursuant to 187—Chapter 12.

BANKING DIVISION[187](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 14, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend rule 187—11.1(17A) as follows:

187—11.1(17A) Scope and applicability of the Iowa Rules of Civil Procedure. Except when inconsistent with Iowa Code chapter 524, this chapter applies to contested case proceedings conducted by the ~~Division of Banking~~ division of banking. Except as expressly provided in Iowa Code chapter 17A and these rules, the Iowa Rules of Civil Procedure do not apply to contested case proceedings. However, upon application by a party, the division may permit the use of procedures provided for in the Iowa Rules of Civil Procedure unless doing so would unreasonably complicate the proceedings or impose an undue hardship on a party.

ITEM 2. Amend rule **187—11.2(17A)**, definitions of “Contested case” and “Presiding officer,” as follows:

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

“*Presiding officer*” means the superintendent of banking, the superintendent’s designee or, under certain circumstances, ~~the~~ an administrative law judge.

ITEM 3. Amend subrule 11.5(2) as follows:

11.5(2) Contents. The notice of hearing shall contain the following information:

- a. A statement of the time, place, and nature of the hearing;
- b. A statement of the legal authority and jurisdiction under which the hearing is to be held;
- c. A reference to the particular sections of the statutes and rules involved;
- d. A short and plain statement of the matters asserted. If the division or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definite and detailed statement shall be furnished;
- e. Identification of all parties including the name, address, and telephone number of the person who will act as advocate for the division or the state and of parties’ counsel where known;
- f. Reference to the procedural rules governing conduct of the contested case proceeding;
- g. Reference to the procedural rules governing informal settlement;
- h. Identification of the presiding officer, if known. If not known, a description of who will serve as presiding officer (e.g., superintendent, superintendent’s designee, administrative law judge from the department of inspections and appeals); ~~and~~
- i. Notification of the time period in which a party may request, pursuant to ~~1998 Iowa Acts, chapter 1202, section 15(1),~~ Iowa Code section 17A.11 and rule 187—11.6(17A), that the presiding officer be an administrative law judge;
- j. A statement requiring the respondent to submit an answer of the type specified in subrule 11.11(2) within 20 days after service of the notice of hearing;
- k. Information on whom to contact if, because of a disability, auxiliary aids or services are needed to enable a person to participate in the matter;

BANKING DIVISION[187](cont'd)

l. If applicable, the date, time, and manner of conduct of a prehearing conference under rule 187—11.16(17A); and

m. The mailing address and email address for filing with the division and notice of the option of email service as provided in subrule 11.12(6).

ITEM 4. Amend rule 187—11.8(17A) as follows:

187—11.8(17A) Telephone and electronic proceedings. The presiding officer may resolve preliminary procedural motions by telephone conference or other electronic means in which all parties have an opportunity to participate. Other ~~telephone~~ proceedings may be held by telephone or other electronic means with the consent of all parties. The presiding officer will determine the location of the parties and witnesses for ~~telephone~~ hearings held by telephone or other electronic means. The convenience of the witnesses or parties, as well as the nature of the case, will be considered when location is chosen. Disciplinary hearings will generally not be held by telephone or electronic means in the absence of consent by all parties, but the presiding officer may permit any witness to testify by telephone or other electronic means. Parties shall disclose at or prior to the prehearing conference whether any witness will be testifying by telephone or other electronic means. Objections, if any, shall be filed with the division and served on all parties at least three business days in advance of hearing.

ITEM 5. Amend rule 187—11.9(17A) as follows:

187—11.9(17A) Disqualification.

11.9(1) A presiding officer or other person shall withdraw from participation in the making of any proposed or final decision in a contested case if that person:

- a.* Has a personal bias or prejudice concerning a party or a representative of a party;
- b.* Has personally investigated, prosecuted or advocated in connection with that case, the specific controversy underlying that case, another pending factually related contested case, or a pending factually related controversy that may culminate in a contested case involving the same parties;
- c.* Is subject to the authority, direction or discretion of any person who has personally investigated, prosecuted or advocated in connection with that contested case, the specific controversy underlying that contested case, or a pending factually related contested case or controversy involving the same parties;
- d.* Has acted as counsel to any person who is a private party to that proceeding within the past two years;
- e.* Has a personal financial interest in the outcome of the case or any other significant personal interest that could be substantially affected by the outcome of the case;
- f.* Has a spouse or relative within the third degree of relationship that: (1) is a party to the case, or an officer, director or trustee of a party; (2) is a lawyer in the case; (3) is known to have an interest that could be substantially affected by the outcome of the case; or (4) is likely to be a material witness in the case; or
- g.* Has any other legally sufficient cause to withdraw from participation in the decision making in that case.

11.9(2) The term “personally investigated” means taking affirmative steps to interview witnesses directly or to obtain documents or other information directly. The term “personally investigated” does not include general direction and supervision of assigned investigators, unsolicited receipt of information which is relayed to assigned investigators, review of another person’s investigative work product in the course of determining whether there is probable cause to initiate a proceeding, or exposure to factual information while performing other division functions, including fact gathering for purposes other than investigation of the matter which culminates in a contested case. A person voluntarily appearing before the division waives any objection to a division staff member’s participation in the appearance and later participation as a decision maker or aid to the decision maker in a contested case. Factual information relevant to the merits of a contested case received by a person who later serves as presiding officer in that case shall be disclosed if required by Iowa Code section ~~17A.17~~ as amended by 1998 Iowa Acts, chapter ~~1202~~, section ~~19~~, 17A.17(3) and subrules 11.9(3) and 11.23(9).

BANKING DIVISION[187](cont'd)

11.9(3) In a situation where a presiding officer or other person knows of information which might reasonably be deemed to be a basis for disqualification and decides voluntary withdrawal is unnecessary, that person shall submit the relevant information for the record by affidavit and shall provide for the record a statement of the reasons for the determination that withdrawal is unnecessary.

11.9(4) If a party asserts disqualification on any appropriate ground, including those listed in subrule 11.9(1), the party shall file a motion supported by an affidavit pursuant to ~~1998 Iowa Acts, chapter 1202, section 19(7)~~ Iowa Code sections 17A.11(3) and 17A.17(7). The motion must be filed as soon as practicable after the reason alleged in the motion becomes known to the party.

11.9(5) If, during the course of the hearing, a party first becomes aware of evidence of bias or other grounds for disqualification, the party may move for disqualification but must establish the grounds by the introduction of evidence into the record.

11.9(6) A motion to disqualify a division staff member or other person shall first be directed to the affected division staff member or other person for determination. If the division staff member or other person determines that disqualification is appropriate, the division staff member or other person shall withdraw from further participation in the case. If the division staff member or other person determines that withdrawal is not required, the presiding officer shall promptly review that determination, provided that, if the person at issue is an administrative law judge, the review shall be by the division. If the presiding officer determines that disqualification is appropriate, the presiding officer or other person shall withdraw. If the presiding officer determines that withdrawal is not required, the presiding officer shall enter an order to that effect. A party asserting disqualification may seek an interlocutory appeal under rule 187—11.25(17A), if applicable, and seek a stay under rule 187—11.29(17A).

ITEM 6. Amend subrule 11.11(2) as follows:

11.11(2) *Answer.* An answer shall be filed within 20 days of service of a petition unless otherwise ordered. A party may move to dismiss or apply for a more definite and detailed statement when appropriate.

~~An~~ Unless otherwise provided in the notice of hearing, an answer shall show on whose behalf it is filed and specifically admit, deny, or otherwise answer all material allegations of the pleading to which it responds. It shall state any facts deemed to show an affirmative defense and contain as many additional defenses as the pleader may claim.

~~An~~ Unless otherwise provided in the notice of hearing, an answer shall state the name, address and telephone number of the person filing the answer, the person or entity on whose behalf it is filed, and the attorney representing that person, if any.

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

ITEM 7. Amend subrule 11.12(4) as follows:

11.12(4) *Filing—how and when made.* Except where otherwise provided by law, a document is deemed filed at the time it is delivered to the division of banking, delivered to an established courier service for immediate delivery to that office, ~~or~~ mailed by first-class mail or state interoffice mail to that office, so long as there is proof of mailing, or delivered by electronic transmission to the email address specified in the notice of hearing. Filing by electronic transmission is complete upon transmission unless the party making the filing learns the attempted filing did not reach the division. The division will not provide a mailed file-stamped copy of documents that are filed by email or other approved electronic means.

ITEM 8. Adopt the following **new** subrule 11.12(6):

11.12(6) *Electronic service.* The presiding officer may by order or a party or a party's attorney may by consent permit service of particular documents by email or similar electronic means, unless precluded by a provision of law. In the absence of such an order or consent, electronic transmission shall not satisfy service requirements but may be used to supplement service when rapid notice is desirable. Consent to electronic service by a party or a party's counsel shall be in writing, may be accomplished through electronic transmission to the board and other parties, and shall specify the email address for

BANKING DIVISION[187](cont'd)

such service. Service by electronic transmission is complete upon transmission unless the board or party making service learns the attempted service did not reach the party to be served.

ITEM 9. Amend rule 187—11.13(17A) as follows:

187—11.13(17A) Discovery.

~~11.13(1) Discovery procedures applicable in civil actions are applicable in contested cases. Unless lengthened or shortened by these rules or by order of the presiding officer, time periods for compliance with discovery shall be as provided in the Iowa Rules of Civil Procedure. The scope of discovery described in Iowa Rule of Civil Procedure 1.503 shall apply to contested case proceedings.~~

~~11.13(2) Any motion relating to discovery shall allege that the moving party has previously made a good-faith attempt to resolve the discovery issues involved with the opposing party. Motions in regard to discovery shall be ruled upon by the presiding officer. Opposing parties shall be afforded the opportunity to respond within ten days of the filing of the motion unless the time is shortened as provided in subrule 11.13(1). The presiding officer may rule on the basis of the written motion and any response, or may order argument on the motion. The following discovery procedures available in the Iowa Rules of Civil Procedure are available to the parties in a contested case proceeding: depositions upon oral examination or written questions; written interrogatories; production of documents, electronically stored information, and things; and requests for admission. The time frames for discovery in the specific Iowa Rules of Civil Procedure govern those specific procedures, unless they are lengthened or shortened by the presiding officer.~~

~~a. Iowa Rules of Civil Procedure 1.701 through 1.717 regarding depositions shall apply to any depositions taken in a contested case proceeding. Any party taking a deposition in a contested case shall be responsible for any deposition costs, unless otherwise specified or allocated in an order. Deposition costs include, but are not limited to, reimbursement for mileage of the deponent, costs of a certified shorthand reporter, and expert witness fees, as applicable.~~

~~b. Iowa Rule of Civil Procedure 1.509 shall apply to any interrogatories propounded in a contested case proceeding.~~

~~c. Iowa Rule of Civil Procedure 1.512 shall apply to any requests for production of documents, electronically stored information, and things in a contested case proceeding.~~

~~d. Iowa Rule of Civil Procedure 1.510 shall apply to any requests for admission in a contested case proceeding. Iowa Rule of Civil Procedure 1.511 regarding the effect of an admission shall apply in contested case proceedings.~~

~~11.13(3) Evidence obtained in discovery may be used in the contested case proceeding if that evidence would otherwise be admissible in that proceeding. The mandatory disclosure and discovery conference requirements in Iowa Rules of Civil Procedure 1.500 and 1.507 do not apply to contested case proceedings. However, upon application by a party, the presiding officer may order the parties to comply with these procedures unless doing so would unreasonably complicate the proceedings or impose an undue hardship. As a practical matter, the purpose of the disclosure requirements and discovery conference is served by the division's obligation to supply the information that is described in Iowa Code section 17A.13(2) upon request while a contested case is pending and by the mutual exchange of information that is required in a prehearing conference under rule 187—11.16(17A).~~

~~11.13(4) Iowa Rule of Civil Procedure 1.508 shall apply to discovery of any experts identified by a party to a contested case proceeding.~~

~~11.13(5) Discovery shall be served on all parties to the contested case proceeding but shall not be filed with the division.~~

~~11.13(6) A party may file a motion to compel or other motion related to discovery in accordance with this subrule. Any motion filed with the division relating to discovery shall allege that the moving party has previously made a good-faith attempt to resolve the discovery issues involved with the opposing party. Motions in regard to discovery shall be ruled upon by the presiding officer. Opposing parties shall be afforded the opportunity to respond within ten days of the filing of the motion unless the time is lengthened or shortened by the presiding officer. The presiding officer may rule on the basis of the written motion and any response, or may order argument on the motion.~~

BANKING DIVISION[187](cont'd)

11.13(7) Evidence obtained in discovery may be used in the contested case proceeding if that evidence would otherwise be admissible in that proceeding.

ITEM 10. Amend paragraph **11.14(1)“a”** as follows:

a. A division subpoena shall be issued to a party on request. Such a request must be in writing. In the absence of good cause for permitting later action, a request for a subpoena must be received at least three days before the scheduled hearing. The request shall include the name, address, email address, and telephone number of the requesting party.

ITEM 11. Amend rule 187—11.16(17A) as follows:

187—11.16(17A) Prehearing conference and disclosures.

11.16(1) Any party may request a prehearing conference. A written request for prehearing conference or an order for prehearing conference on the presiding officer's own motion shall be filed not less than seven days prior to the hearing date. A prehearing conference shall be scheduled not less than three business days prior to the hearing date.

Written notice of the prehearing conference shall be given by the presiding officer to all parties. For good cause the presiding officer may permit variances from this rule.

11.16(2) Each party shall ~~bring~~ disclose at or prior to the prehearing conference:

a. A final list of the witnesses who the party anticipates will testify at hearing. Witnesses not listed may be excluded from testifying unless there was good cause for the failure to include their names; and

b. A final list of exhibits which the party anticipates will be introduced at hearing. Exhibits other than rebuttal exhibits that are not listed may be excluded from admission into evidence unless there was good cause for the failure to include them.

c. Witness or exhibit lists may be amended subsequent to the prehearing conference within the time limits established by the presiding officer at the prehearing conference. Any such amendments must be served on all parties.

11.16(3) In addition to the requirements of subrule 11.16(2), the parties at a prehearing conference may:

- a. Enter into stipulations of law or fact;
- b. Enter into stipulations on the admissibility of exhibits;
- c. Identify matters which the parties intend to request be officially noticed;
- d. Enter into stipulations for waiver of any provision of law; and
- e. Consider any additional matters which will expedite the hearing.

11.16(4) Prehearing conferences shall be conducted by telephone unless otherwise ordered. Parties shall exchange and receive witness and exhibit lists in advance of a telephone prehearing conference. Unless otherwise provided in the order setting a prehearing conference, the prehearing conference shall be conducted by an administrative law judge.

11.16(5) The parties shall exchange copies of all exhibits marked for introduction at hearing in the manner provided in subrule 11.21(4) no later than three business days in advance of hearing, or as ordered by the presiding officer at the prehearing conference.

ITEM 12. Amend rule 187—11.20(17A) as follows:

187—11.20(17A) Hearing procedures.

11.20(1) The presiding officer presides at the hearing, and may rule on motions, require briefs, issue a proposed decision, and issue such orders and rulings as will ensure the orderly conduct of the proceedings.

11.20(2) All objections shall be timely made and stated on the record.

11.20(3) Parties have the right to participate or to be represented in all hearings or prehearing conferences related to their case. Partnerships, corporations, or associations may be represented by any member, officer, director, shareholder, or duly authorized agent. Any party may be represented by an attorney, or another person authorized by law, at the party's expense.

BANKING DIVISION[187](cont'd)

11.20(4) Subject to terms and conditions prescribed by the presiding officer, parties have the right to introduce evidence on issues of material fact, cross-examine witnesses present at the hearing as necessary for a full and true disclosure of the facts, present evidence in rebuttal, and submit briefs and engage in oral argument.

11.20(5) The presiding officer shall maintain the decorum of the hearing and may refuse to admit or may expel anyone whose conduct is disorderly.

11.20(6) Witnesses may be sequestered during the hearing.

11.20(7) The presiding officer shall conduct the hearing in the following manner:

a. The presiding officer shall give an opening statement briefly describing the nature of the proceedings;

b. The parties shall be given an opportunity to present opening statements;

c. Parties shall present their cases in the sequence determined by the presiding officer;

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

e. When all parties and witnesses have been heard, parties may be given the opportunity to present final arguments.

11.20(8) Depositions may be used at hearing to the extent permitted by Iowa Rule of Civil Procedure 1.704.

11.20(9) Witnesses are entitled to be represented by an attorney at their own expense. The attorney may assert legal privileges personal to the client but may not make other objections. The attorney may only ask questions of the client to prevent a misstatement from entering the record.

11.20(10) The parties in a contested case shall be responsible for any witness fees and expenses incurred by witnesses appearing at the contested case hearing, unless otherwise specified or allocated in an order. The costs for lay witnesses shall be determined in accordance with Iowa Code section 622.69. The costs for expert witnesses shall be determined in accordance with Iowa Code section 622.72. Witnesses are entitled to reimbursement for mileage and may be entitled to reimbursement for meals and lodging, as incurred.

ITEM 13. Amend subrule 11.21(4) as follows:

11.21(4) The party seeking admission of an exhibit must provide opposing parties with an opportunity to examine the exhibit prior to the ruling on its admissibility. Copies of documents should normally be provided to opposing parties. All exhibits admitted into evidence shall be appropriately marked and be made part of the record. The state's exhibits shall be marked numerically, and the applicant's or respondent's exhibits shall be marked alphabetically.

All exhibits admitted into evidence shall be appropriately marked and be made part of the record.

ITEM 14. Amend subrule 11.22(6) as follows:

11.22(6) "Good cause" for purposes of this rule shall have the same meaning as "good cause" for setting aside a default judgment under Iowa Rule of Civil Procedure ~~236~~ 1.971.

ITEM 15. Amend subrule 11.27(1) as follows:

11.27(1) *Appeal by party.* Any adversely affected party may appeal a proposed decision to the superintendent within 30 days after issuance of the proposed decision. Such an appeal is required to exhaust administrative remedies and is a jurisdictional prerequisite to seeking judicial review.

ITEM 16. Amend paragraph **11.29(1)"b"** as follows:

b. Any party to a contested case proceeding may petition the division of banking for a stay or other temporary remedies pending judicial review of all or part of that proceeding. The petition shall state the reasons justifying a stay or other temporary remedy. Seeking a stay from the division is required to exhaust administrative remedies prior to seeking a stay from the district court.

BANKING DIVISION[187](cont'd)

ITEM 17. Amend subparagraph **11.31(2)“b”(5)** as follows:

(5) ~~Fax~~ Electronic service. Fax or email may be used as the sole method of delivery if the person required to comply with the order has filed a written request that division orders be sent by fax or email and has provided a fax number or email address for that purpose.

ITEM 18. Amend **187—Chapter 11**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 17A ~~as amended by 1998 Iowa Acts, chapter 1202.~~

[Filed 9/19/18, effective 11/14/18]

[Published 10/10/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/10/18.

ARC 4060C

BANKING DIVISION[187]

Adopted and Filed

Rule making related to uniform waiver and variance

The Iowa Division of Banking (IDOB) hereby amends Chapter 12, “Uniform Waiver and Variance Rules,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 17A.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 17A.9A.

Purpose and Summary

These amendments reflect the Iowa Division of Banking's compliance with Iowa Code section 17A.7(2), which states that, as of July 1, 2012, “over each five-year period of time, an agency shall conduct an ongoing and comprehensive review of all of the agency's rules [and t]he goal of the review is the identification and elimination of all rules of the agency that are outdated, redundant, or inconsistent or incompatible with statute or its own rules or those of other agencies.” The amendments to Chapter 12 are intended to update statutory references to reflect the correct authority for the rules.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 15, 2018, as **ARC 3950C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Superintendent of Banking on September 19, 2018.

Fiscal Impact

No current fees are being changed, and no new fees are being added; therefore, the IDOB has concluded that these amendments will not have a fiscal impact to the State of Iowa.

BANKING DIVISION[187](cont'd)

Jobs Impact

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, the IDOB has concluded that these amendments will have no impact on jobs in Iowa.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the IDOB for a waiver of the discretionary provisions, if any, pursuant to 187—Chapter 12.

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 14, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend rule 187—12.1(17A,ExecOrd11), parenthetical implementation statute, as follows:

187—12.1(17A,ExecOrd11 524) Scope of chapter.

ITEM 2. Amend rule 187—12.2(17A,ExecOrd11), parenthetical implementation statute, as follows:

187—12.2(17A,ExecOrd11 524) Superintendent discretion.

ITEM 3. Amend rule 187—12.3(17A,ExecOrd11), parenthetical implementation statute, as follows:

187—12.3(17A,ExecOrd11 524) Requester's responsibilities in filing a waiver or variance petition.

ITEM 4. Amend rule 187—12.4(17A,ExecOrd11), parenthetical implementation statute, as follows:

187—12.4(17A,ExecOrd11 524) Notice.

ITEM 5. Amend rule 187—12.5(17A,ExecOrd11), parenthetical implementation statute, as follows:

187—12.5(17A,ExecOrd11 524) Superintendent's responsibilities regarding petition for waiver or variance.

ITEM 6. Amend rule 187—12.6(17A,ExecOrd11), parenthetical implementation statute, as follows:

187—12.6(17A,ExecOrd11 524) Public availability.

BANKING DIVISION[187](cont'd)

ITEM 7. Amend rule 187—12.7(17A,ExecOrd11), parenthetical implementation statute, as follows:

187—12.7(17A,ExecOrd11 524) Voiding or cancellation.

ITEM 8. Amend rule 187—12.8(17A,ExecOrd11), parenthetical implementation statute, as follows:

187—12.8(17A,ExecOrd11 524) Violations.

ITEM 9. Amend rule 187—12.9(17A,ExecOrd11), parenthetical implementation statute, as follows:

187—12.9(17A,ExecOrd11 524) Defense.

ITEM 10. Amend rule 187—12.10(17A,ExecOrd11), parenthetical implementation statute, as follows:

187—12.10(17A,ExecOrd11 524) Appeals.

ITEM 11. Amend rule 187—12.11(17A,ExecOrd11), parenthetical implementation statute, as follows:

187—12.11(17A,ExecOrd11 524) Summary reports.

ITEM 12. Amend 187—Chapter 12, implementation sentence, as follows:

These rules are intended to implement ~~Executive Order Number 11~~ and Iowa Code section 17A.9A and chapter 524.

[Filed 9/19/18, effective 11/14/18]

[Published 10/10/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/10/18.

ARC 4061C

BANKING DIVISION[187]

Adopted and Filed

Rule making related to debt management

The Iowa Division of Banking (IDOB) hereby adopts new Chapter 20, "Debt Management," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 17A.3 and 533A.12.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 533A.

Purpose and Summary

These rules establish the details of the procedures for an application for a debt management license; renewal of an existing debt management license; submission of required notices regarding changes in name, location, or control of a licensee; and complaints, investigations, and disciplinary actions. The rules also establish record-keeping requirements for licensees. The rules specifically instruct licensees and applicants regarding the requirements to use the nationwide multistate licensing system to apply

BANKING DIVISION[187](cont'd)

for and maintain debt management licenses. The nationwide multistate licensing system makes the licensing process faster, easier, and more uniform for both licensees and the licensing staff who process applications and other submissions. In the interest of making state government more efficient and transparent, the structure of these rules is similar to the structure of the Iowa Division of Banking's rules applicable to other nondepository financial institutions.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 15, 2018, as **ARC 3954C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Superintendent of Banking on September 19, 2018.

Fiscal Impact

No existing fees are being altered, and no new fees are being added, so the IDOB has concluded that the rules will have no fiscal impact to the State of Iowa.

Jobs Impact

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. The IDOB has therefore concluded that the rules should not have an impact on jobs in Iowa.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the IDOB for a waiver of the discretionary provisions, if any, pursuant to 187—Chapter 12.

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 14, 2018.

The following rule-making action is adopted:

Adopt the following **new** 187—Chapter 20:

CHAPTER 20
DEBT MANAGEMENT

187—20.1(17A,533A) Definitions. For the purposes of this chapter, the definitions in Iowa Code chapter 533A shall apply. In addition, unless the context otherwise requires:

“*Debt management business*” means a person that performs debt management as defined in Iowa Code section 533A.1(2) or debt settlement as defined in Iowa Code section 533A.1(3).

“*Nationwide multistate licensing system*” or “*NMLS*” means a multistate licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association

BANKING DIVISION[187](cont'd)

of Residential Mortgage Regulators for the licensing and registration of nondepository financial institutions.

“Upon completion of a settlement of a debtor’s debt” means when all of the payments necessary to completely satisfy a debtor’s debt have been remitted to the creditor.

187—20.2(17A,533A) Utilization of the NMLS. All application and licensing information shall be submitted through the NMLS including but not limited to the following: original application information; changes in application information; license renewal information; changes in name, location, and control; and notices of significant events. The applicant or licensee shall pay any fees required by the NMLS including but not limited to the following: system processing fees, background check fees, and credit background check fees.

187—20.3(17A,533A) Application for license.

20.3(1) An application for a license to operate a debt management business in Iowa shall be submitted to the superintendent, on the form provided and with the information requested, through the NMLS. The superintendent may consider an application withdrawn if it does not contain all of the information required and the missing information is not submitted to the superintendent within 30 days after the superintendent requests the missing information. The applicant may also request that the application be withdrawn at any time before the superintendent has decided to grant or deny the application.

20.3(2) Each officer, director, and individual who has control of an applicant must provide fingerprints, authorize a fingerprint background check through the NMLS, and pay the appropriate fees for the purpose of conducting a national criminal history background check through the Federal Bureau of Investigation.

20.3(3) The applicant shall submit with the application an application fee of \$100 and an initial license fee of \$250. The superintendent shall refund the initial license fee if the application is denied, but the application fee is not subject to refund.

20.3(4) If any information material to the application changes after the applicant files the initial application, the applicant shall provide updated information to the superintendent within ten days of the change. When such a material change in information has occurred, the superintendent may deny an application if the applicant fails to provide updated information within the prescribed time frame.

20.3(5) An applicant for a license to operate a debt management business must file with the superintendent a \$25,000 surety bond in compliance with the provisions of Iowa Code section 533A.2(4).

20.3(6) Licenses expire on the next December 31 after they are issued, but licenses granted on or after November 1 but before January 1 will not expire until December 31 of the following year. For example, a license granted on November 17, 2017, would not expire until December 31, 2018.

187—20.4(17A,533A) Grounds for approval or denial.

20.4(1) The superintendent shall approve or deny a license application in accordance with the provisions of Iowa Code section 533A.3.

20.4(2) The following may be considered evidence that the business of the applicant may not be operated lawfully and honestly consistent with the purposes of Iowa Code chapter 533A and may therefore be considered grounds for denial of an application:

a. An applicant, or an officer, director, or individual who has control of an applicant, has had a mortgage loan originator license or any lending license revoked in any governmental jurisdiction.

b. An applicant, or an officer, director, or individual who has control of an applicant, has been convicted of, or pled guilty or no contest to, a felony in a domestic, foreign, or military court if such felony involved an act of fraud, dishonesty, or breach of trust, or money laundering.

187—20.5(17A,533A) Renewal of license.

BANKING DIVISION[187](cont'd)

20.5(1) To remain authorized to operate a debt management business, a licensee must renew a license before the expiration date of the license. A licensee who fails to renew a license before the expiration date is not authorized to operate a debt management business in Iowa after the expiration date.

20.5(2) An application to renew a license shall be submitted to the superintendent, on the form provided and with the information requested, through the NMLS by December 1 of the year of expiration. For example, for a license that will expire on December 31, 2017, an application for renewal shall be submitted by December 1, 2017. All requested information, including any material change to information contained in the original application, shall be provided to the superintendent. The superintendent may assess late fees of up to \$10 per day for applications submitted and accepted for processing after December 1.

20.5(3) The superintendent shall grant an application to renew a license if:

a. The licensee submits the application and the appropriate renewal fee by December 1 or the licensee submits the application after December 1 but before January 1 and pays the appropriate renewal fee and the appropriate late fee;

b. The application is fully completed and includes all necessary information; and

c. The application does not reveal grounds to deny a license.

20.5(4) It is within the discretion of the superintendent to reject for processing a renewal application submitted after December 31 or to treat such an application as an application for a new license. A licensee who fails to renew a license before the expiration date is not authorized to operate a debt management business in Iowa after the expiration date.

187—20.6(17A,533A) Changes in the licensee's name, location, or control.

20.6(1) A licensee wishing to change the name or location of a debt management business shall notify the superintendent at least 30 days prior to the requested change. The request shall include proof that the licensee has either obtained a new bond or amended the existing bond to reflect the new name or location. The licensee shall submit a \$25 fee per license in conjunction with the request. A licensee may not operate a debt management business under a different name without providing such notice and submitting the required fee.

20.6(2) A licensee wishing to establish a branch office must submit the application to the superintendent, on the form provided and with the information requested, through the NMLS, along with a fee of \$250. Licenses issued to branch offices are treated as independent licenses and are subject to the renewal requirements, fees, and procedures specified in rule 187—20.5(17A,533A).

20.6(3) When change in control of a licensee is proposed, the party that will assume control of the licensee shall give notice to the superintendent at least 60 days before the proposed change will take effect. Change in control is defined in Iowa Code section 533A.5A. The party that will assume control of the licensee shall furnish the superintendent with the same information required of initial applicants for a license, along with a fee of \$100. The party that will assume control may be required to provide fingerprints, authorize a fingerprint background check through the NMLS, and pay the appropriate fees for the purpose of conducting a national criminal history background check through the Federal Bureau of Investigation. The superintendent shall approve or deny the request in accordance with the provisions of Iowa Code section 533A.3.

20.6(4) Failure to notify the superintendent within the prescribed time as required by this rule may subject the licensee to disciplinary action.

187—20.7(17A,533A) Notice of significant events. A licensee shall notify the superintendent immediately and in writing within ten days of the occurrence of any of the following events.

20.7(1) The licensee or any of the licensee's officers, directors, principal stockholders, or affiliates file for bankruptcy protection or commence reorganization proceedings.

20.7(2) A prosecuting authority files criminal charges against the licensee or any of the licensee's officers, directors, principal stockholders, or affiliates.

BANKING DIVISION[187](cont'd)

20.7(3) Another state or jurisdiction institutes license denial, cease and desist, suspension or revocation procedures, or other formal or informal regulatory action against the licensee or any of the licensee's officers, directors, principal stockholders, or affiliates.

20.7(4) The attorney general of Iowa, the Federal Trade Commission, or the enforcer of the consumer protection laws of any other jurisdiction initiates an action to enforce the consumer protection laws against the licensee or any of the licensee's officers, directors, principal stockholders, or affiliates.

187—20.8(17A,533A) Administrative fees.

20.8(1) *Examination or investigation fees.* A licensee shall pay an investigation or examination fee as determined by the superintendent based on the actual cost of the operation of the finance bureau of the banking division, as described in Iowa Code section 533A.10(1).

20.8(2) *Late fees for failing to respond.* In the process of administering this chapter, the superintendent may require a person to provide responses to formal orders, examinations, or complaint inquiries. If a person fails to respond within 30 days of the request, the superintendent may assess a penalty of \$10 per day after the initial 30 days.

20.8(3) *NMLS system processing fees.* In addition to the fees set forth in this chapter, the applicant or licensee shall pay any fee assessed by the NMLS attributed to the licensee's record in the NMLS including but not limited to the initial set-up fee and annual processing fee.

187—20.9(17A,533A) Licensee records.

20.9(1) *General record requirements.* A licensee must keep records that allow the superintendent to determine the licensee's compliance with relevant statutes and regulations.

a. The licensee may keep the records as a hard copy or in an electronic equivalent.

b. The licensee shall keep records for at least 36 months from the date of the final transaction with the debtor.

c. The licensee shall maintain all books and records in good order and shall produce books and records for the superintendent upon request. Failure to produce such books and records within 30 days of the superintendent's request may be grounds for disciplinary action against the licensee.

d. The obligation to maintain records continues even after the licensee ceases business operations in Iowa and turns in or surrenders its license. The owners and directors of the licensee are responsible for ensuring that this requirement is met.

20.9(2) *Required records.* A licensee operating a debt management business shall keep, at its principal place of business, an index, a client log, an account file, and an account ledger.

20.9(3) *Index.* All records kept by a debt management business shall be accessible by the debtor's name and account number.

20.9(4) *Client log.* The client log is a chronological list of active and inactive clients. The client log shall include the name of the client, the account number, the date the account was opened, the date the account was closed, and the expiration date of the account.

20.9(5) *Account file.* The account file consists of the application, the licensee's comprehensive review of the debtor's debts and monthly budget as required by Iowa Code section 533A.8(2), a copy of the debt management contract, and all disclosures to the debtor required by Iowa Code section 533A.8(3).

20.9(6) *Account ledger.* A licensed debt management business whose debt management program is based on a model which requires the licensee or any licensee to receive money or evidences thereof from the debtor to distribute to the debtor's creditors shall maintain an account ledger for each debtor, which shall show:

a. The name and address of the debtor, the account number, the amount of the debtor's outstanding debts, and the total of payments the debtor has made to the licensee.

b. A transaction history that lists all transactions with the debtor and the debtor's creditors. Payments from the debtor shall be posted to the account ledger, effective the date the payments were received, and shall show the date payment was received and the total amount of the payment. Payments to the debtor's creditors made from the debtor's account shall be posted to the account ledger effective

BANKING DIVISION[187](cont'd)

the date the payments were made. The account ledger shall show the date the payment was made, the total amount of the payment, and a description of how the payment was applied to the debtor's account. Fees that the licensee deducts from the debtor's account shall be posted to the account ledger effective the date the fees were collected, and the account ledger shall show the date the fees were collected and the total amount of fees collected. Other transactions shall be fully described. Corrections to the transaction history shall be made by corrective entry and not by erasure.

20.9(7) *General business records.* A licensee must keep the following general business records for at least 36 months:

a. All checkbooks, check registers, bank statements, deposit slips, withdrawal slips, and canceled checks (or copies thereof) relating to the debt management business of the licensee.

b. Complete records (including invoices and supporting documentation) for all expenses and fees paid on behalf of each applicant for debt management or debt settlement, including a record of the date and amount of all such payments actually made by each applicant.

c. Copies of all federal tax withholding forms, reports of income for federal taxation, and evidence of payments to all employees, independent contractors, and others compensated by a licensee in connection with the conduct of the debt management business.

d. All correspondence and other records relating to the maintenance of any surety bond required by Iowa Code chapter 533A.

e. Copies of all reports of audits, examinations, inspections, reviews, investigations, or other similar functions performed by any third party, including but not limited to the superintendent or any other regulatory or supervisory authority.

f. Copies of all advertisements and solicitations concerning debt management or debt settlement directed at Iowa residents, including advertisements and solicitations on the Internet or by other electronic means, in the format (e.g., recorded sound, video, print) in which the advertisements and solicitations were published or distributed.

20.9(8) *Disposal of records.* If a licensee or former licensee disposes of records at the end of the retention period, the licensee or former licensee shall dispose of the records in a reasonable manner that safeguards any identification information, as defined in Iowa Code section 715A.8(1) "a." The owners and directors of licensees and former licensees are responsible for ensuring that this requirement is met.

187—20.10(17A,533A) Complaints and investigations.

20.10(1) The superintendent may, at any time and as often as the superintendent deems necessary, investigate a licensee and examine the licensee's books, accounts, records, and files.

20.10(2) The superintendent may investigate complaints about, or alleged violations by, any licensee.

20.10(3) The following shall constitute a complaint or alleged violation:

a. A written complaint received from a consumer, member of the public, employee, business affiliate, or governmental agency.

b. Notice to the superintendent from any source that the licensee has been the subject of disciplinary proceedings in another jurisdiction.

c. Notice to the superintendent from any source that the licensee has been convicted of forgery, embezzlement, obtaining money under false pretenses, extortion, conspiracy to defraud, or other similar offense, in a court of competent jurisdiction in this state or in any other state, territory, or district of the United States, or in any foreign jurisdiction.

187—20.11(17A,533A) Disciplinary action.

20.11(1) The superintendent has authority pursuant to Iowa Code chapters 533A and 17A to impose discipline for violations of Iowa Code chapter 533A and the rules promulgated thereunder.

20.11(2) Grounds for discipline. The superintendent may impose any of the disciplinary sanctions set out in Iowa Code section 533A.7(2) when the superintendent finds any of the following:

a. The licensee has violated a provision of Iowa Code chapter 533A or a rule adopted under Iowa Code chapter 533A or any other state or federal law applicable to the conduct of the licensee's business.

BANKING DIVISION[187](cont'd)

- b.* A fact or condition exists which, had it existed at the time of the licensee's original application for a license, would have warranted the superintendent to refuse to issue the original license.
 - c.* The licensee is found upon investigation to be insolvent, in which case the license shall be revoked immediately.
 - d.* The licensee has violated an order of the superintendent.
 - e.* The licensee fails to fully cooperate with an examination or investigation, including failing to respond to an inquiry from the superintendent within 30 days of the date the superintendent mails a written communication directed to the licensee's last-known address on file with the superintendent.
 - f.* The licensee has engaged in any conduct that subverts or attempts to subvert an examination or investigation by the superintendent.
 - g.* The licensee continues to operate a debt management business without an active and current license.
 - h.* The licensee operates a debt management business in the same location as another business without the superintendent's written approval.
 - i.* The licensee has abandoned its place of business for 60 or more days.
 - j.* The licensee fails to notify the superintendent within ten days of the occurrence of one of the significant events set forth in rule 187—20.7(17A,533A).
 - k.* Another state or jurisdiction has denied, suspended, revoked, or refused to renew the licensee's license, registration, or authorization to operate a debt management business under the other state's or jurisdiction's law.
 - l.* The licensee fails to create and maintain complete and accurate records as required by state or federal law, regulation, or rule.
 - m.* The licensee fails to notify the superintendent of a change in ownership, name, or principal place of business.
 - n.* The licensee fails to pay a license fee required by Iowa Code chapter 533A or to maintain a bond required by Iowa Code chapter 533A.
- 20.11(3)** The superintendent shall not refund a license fee, in whole or in part, for a license that has been suspended, revoked, or surrendered.

187—20.12 Reserved.

187—20.13(17A,533A) Restrictions on operating a debt management business. A licensee shall adhere to the following restrictions related to operating a debt management business.

20.13(1) Licensees shall not engage in any of the acts prohibited by Iowa Code section 533A.11.

20.13(2) Licensees may not establish branch locations outside the United States.

These rules are intended to implement Iowa Code chapter 533A.

[Filed 9/20/18, effective 11/14/18]

[Published 10/10/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/10/18.

ARC 4062C**CORRECTIONS DEPARTMENT[201]****Adopted and Filed****Rule making related to banning of pornographic materials within department institutions**

The Corrections Department hereby amends Chapter 20, "Institutions Administration," Iowa Administrative Code.

CORRECTIONS DEPARTMENT[201](cont'd)

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 904.108 and 2018 Iowa Acts, House File 2492, section 21.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2018 Iowa Acts, House File 2492, section 21.

Purpose and Summary

Section 21 of 2018 Iowa Acts, House File 2492, prohibits funds appropriated to the Department or other funds made available to the Department from being used to distribute or make available any commercially published information or material to an inmate when such information or material is sexually explicit or features nudity. The Department is required to adopt rules pursuant to Iowa Code chapter 17A to administer the section.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 1, 2018, as **ARC 3912C**. A public hearing was held on August 21, 2018, at 11 a.m. at the Jessie Parker Building, 510 East 12th Street, Des Moines, Iowa. No one attended the public hearing. Comments were received from incarcerated individuals who were opposed to the rule making. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on September 7, 2018.

Fiscal Impact

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

Jobs Impact

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

Waivers

The Department does not have the authority to waive requirements established by statute.

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 14, 2018.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** definitions of “Commercially published information or material,” “Features,” “Nudity,” “Publication” and “Sexually explicit” in rule **201—20.2(904)**:

“*Commercially published information or material*” means any book, booklet, pamphlet, magazine, periodical, newsletter, photograph or other pictorial depiction, or similar document, including stationery

CORRECTIONS DEPARTMENT[201](cont'd)

and greeting cards, published by any individual, organization, company, or corporation, which is distributed or made available through any means or media for commercial purposes. This definition includes any portion extracted, photocopied, or clipped from such items.

“*Features*” means that the publication contains depictions of nudity or sexually explicit conduct on a routine or regular basis or promotes itself based upon such depictions in the case of individual one-time issues. Publications containing nudity illustrative of medical, educational, or anthropological content may be excluded from this definition.

“*Nudity*” means a pictorial depiction where genitalia or female breasts are exposed. When the pictorial depiction of the female breast displays the areola or nipple, this material will be rejected.

“*Publication*” means a book, booklet, pamphlet, or similar document, or a single issue of a magazine, periodical, newsletter, newspaper, plus such other materials addressed to a specific incarcerated individual, such as advertising brochures, flyers, and catalogs.

“*Sexually explicit*” means a pictorial depiction of actual or simulated sexual acts including sexual intercourse, oral sex, or masturbation. Sexually explicit material does not include material of a news or information type. Publications concerning research or opinions on sexual, health, or reproductive issues should be admitted unless the publications are otherwise a threat to legitimate institutional interests.

ITEM 2. Amend rule 201—20.6(904) as follows:

201—20.6(904) Publications.

20.6(1) The institution shall allow incarcerated individuals access to publications when doing so is consistent with institutional goals of maintaining internal order, safety, security, and rehabilitation. Publications are additionally governed by the provisions of department of corrections policy OP-MTV-02.

20.6(2) No change.

20.6(3) All publications not on the approved list shall be reviewed by a publication review committee for approval; or denial; or control of the publication.

a. The committee shall be appointed by the director or designee, department of corrections, and shall include a:

(1) A person with broad exposure to various publications. ~~and two~~

(2) Two representatives of correctional operations.

b. No change.

20.6(4) The following procedures shall be used when a publication not on the approved list is reviewed:

a. The committee shall approve; or deny; or control publications within 30 working days of receipt of the publication.

b. When a publication is denied ~~or controlled~~, the committee shall send the incarcerated individual a written notice stating the publication involved, the reason for denial ~~or control~~, and the incarcerated individual’s available appeal process.

c. The incarcerated individual shall have ~~five~~ ten days from receipt of the notice of denial ~~or control~~ to notify the designated institution staff to destroy the publication, to specify where to send the publication at the incarcerated individual’s expense, or to notify the institution that the decision is being appealed.

d. No change.

20.6(5) A publication may be denied when the publication presents a danger to the security or order of an institution or is inconsistent with rehabilitation goals. Authorized reasons for denying a publication are that the publication:

a. and b. No change.

c. Contains ~~hard-core pornography depicting patently offensive representations of oral, anal, or vaginal intercourse, actual or simulated, involving humans, or depicting patently offensive representations of masturbation, excretory functions, or bestiality, or lewd exhibition of the genitals, which the average adult taking the material as a whole in applying statewide contemporary community standards would find appeals to the prurient interest; and which material, taken as a whole, lacks serious~~

CORRECTIONS DEPARTMENT[201](cont'd)

literary, scientific, political, or artistic value as prohibited by Iowa Code section 728.4 or material which is sexually explicit or features nudity.

d. to j. No change.

k. Is a pamphlet, catalog, or other publication whose purpose is primarily or significantly to sell items or materials that are expressly prohibited inside any of the department institutions. The warden can make exceptions for materials that serve reentry efforts.

~~20.6(6) Portrayal or simulation of fellatio, cunnilingus, masturbation, ejaculation, sexual intercourse, male erection, bestiality, sadomasochism, excretory functions, lewd exhibition of genitals, or other sexually explicit materials will be denied to incarcerated individuals when the material is inconsistent with rehabilitation goals.~~

~~20.6(7) Publications which contain material portraying or simulating fellatio, cunnilingus, masturbation, ejaculation, sexual intercourse or male erection and are not approved or denied by the review committee will be controlled for the security and order of the institution and to assist in enabling its control from those incarcerated individuals denied access by 20.6(6) above. Institutional procedures shall be established for the incarcerated individual to reserve time in a designated controlled area and obtain the controlled publication for reading during specified times. The controlled publication will be secured until the incarcerated individual makes arrangements for further review of the controlled publication. An incarcerated individual may have secured no more than ten publications at any given time, none of which are over three months old from publication date or receipt, and any that are in excess of the ten limit or over three months old must be sent out of the institution at the incarcerated individual's expense, destroyed, or taken with the incarcerated individual upon release.~~

~~20.6(8) An incarcerated individual may appeal the committee's decision or the denial of a publication because the publication is inconsistent with rehabilitation goals within ten days of receipt of the decision by filing a written appeal and sending it to Office of Inspector General, Department of Corrections, 510 East 12th Street, Des Moines, Iowa 50319. The inspector general's decision shall be final.~~

[Filed 9/13/18, effective 11/14/18]

[Published 10/10/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/10/18.

ARC 4063C

ECONOMIC DEVELOPMENT AUTHORITY[261]

Adopted and Filed

Rule making related to the Iowa energy center

The Economic Development Authority hereby adopts new Chapter 403, "Iowa Energy Center," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 15.106A and 15.120.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 15.120.

Purpose and Summary

2017 Iowa Acts, Senate File 513, transferred the Iowa Energy Center from Iowa State University to the Economic Development Authority. Senate File 513, section 35, created new Iowa Code section 15.120, which established the Center within the Authority and changed the Center's purpose and governing

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

board. New Chapter 403 includes the Center's purpose, definitions, and rules governing the Iowa Energy Center Board.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 20, 2018, as **ARC 3842C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Authority on August 14, 2018.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

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 14, 2018.

The following rule-making action is adopted:

Adopt the following **new** 261—Chapter 403:

CHAPTER 403
IOWA ENERGY CENTER

261—403.1(15) Purpose. The Iowa energy center is established within the authority with the following purposes:

1. To expand workforce and career opportunities for workers in the energy sector to ensure that the state is able to attract and train professionals to meet the state's future energy needs.
2. To support technology-based development by encouraging public-private partnerships and innovative manufacturers to develop and bring to market new energy technologies.
3. To support rural and underserved areas and vulnerable populations by creating opportunities for greater access to energy efficiency expertise, training, programs, and cyber security preparedness for small utilities.
4. To support the expansion of natural gas infrastructure to rural and underserved areas of the state where the absence is a limiting factor to economic development.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

5. To promote and fund research, development, and commercialization of biomass technology to benefit the state economically and environmentally by further realizing the value-added attributes of biomass in the development of bioenergy, biofuels, and biochemicals.

6. To encourage growth of the alternative fuel vehicle market, particularly for electric vehicles, and the infrastructure necessary to support the market.

7. To support efforts to modernize the electric grid infrastructure of the state to support increased capacity and new technologies.

261—403.2(15) Definitions. As used in these rules, unless the context otherwise requires:

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

“*Board*” means the governing board of the Iowa energy center established pursuant to Iowa Code section 15.120(2), and includes the members appointed to the board by the governor.

“*Center*” means the Iowa energy center established pursuant to Iowa Code section 15.120.

“*Committee*” means a committee established by the board.

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

“*Internet site*” means the information and related content maintained by the authority and found at www.iowaeconomicdevelopment.com. “Internet site” may include content at affiliated sites whose content is integrated with that site, including the Iowa energy center website.

261—403.3(15) Iowa energy center board.

403.3(1) Composition. A governing board is established consisting of the following members appointed by the governor:

a. One member representing Iowa state university of science and technology, in consultation with the president of that university.

b. One member representing the university of Iowa, in consultation with the president of that university.

c. One member representing the university of northern Iowa, in consultation with the president of that university.

d. One member representing private colleges and universities within the state, in consultation with the Iowa association of independent colleges and universities.

e. One member representing community colleges, in consultation with the Iowa association of community college trustees.

f. One member representing the economic development authority, in consultation with the director of the economic development authority.

g. One member representing the state department of transportation, in consultation with the director of the department of transportation.

h. One member representing the office of consumer advocate, in consultation with the consumer advocate.

i. One member representing the utilities board, in consultation with the chair of the utilities board.

j. One member representing rural electric cooperatives, in consultation with the Iowa association of electric cooperatives.

k. One member representing municipal utilities, in consultation with the Iowa association of municipal utilities.

l. Two members representing investor-owned utilities, one representing gas utilities, and one representing electric utilities, in consultation with the Iowa utility association.

403.3(2) Terms. Members of the board are appointed for staggered terms of four years beginning and ending as provided in Iowa Code section 69.19. A person appointed to fill a vacancy serves only for the unexpired portion of the term. A member is eligible for reappointment. Any vacancy shall be filled by the governor as provided for in Iowa Code section 15.120(2). The terms of board members shall be staggered as determined by the director.

403.3(3) Quorum and voting requirements. A quorum of the board requires nine or more members, and any board action requires an affirmative vote by a majority of the members present.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

403.3(4) Board officers. The board shall elect a chairperson and a vice chairperson annually and may elect other officers as necessary.

403.3(5) Meetings.

a. Meetings of the board are held at the call of the chairperson or when two members of the board request a meeting. The board generally meets quarterly at the authority's offices located at 200 East Grand Avenue in Des Moines, Iowa. By notice of the regularly published meeting agendas, the board and its committees may hold regular or special meetings at other locations within the state. Meeting agendas are available on the authority's website.

b. Meetings of the board and any committee it may establish are conducted in accordance with the provisions of Iowa Code chapter 21. Any person may attend and observe the proceedings of the board and committee meetings except for those portions of the meetings conducted in closed session pursuant to Iowa Code section 21.5. Persons observing may use cameras or recording devices during the meeting so long as the use of such devices does not interfere with the proceedings. The chairperson may order any person to discontinue the use of such a device if the chairperson believes it is causing an interference with the proceedings. The chairperson may have any person excluded who fails to comply with such an order. The chairperson may also exclude any person generally causing a disruption of the proceedings.

403.3(6) Committees. The board may, from time to time, establish advisory committees for purposes of overseeing the center, its programs, and its operations. Such committees include but are not limited to the following:

a. A grant committee, the purpose of which shall be to assist the board in making awards of grants under the center's programs.

(1) The grant committee is an advisory body comprised of voting members of the board who are selected annually by the voting members of the board. The membership and size of the committee as well as the terms of the committee members will be established annually by the board.

(2) The members of the grant committee will elect a chairperson. The chairperson may appoint members of the grant committee to serve on a grant committee subcommittee if necessary. Such a subcommittee is advisory only and may perform such duties as may be assigned by the chairperson.

(3) The duties of the grant committee may include reviewing applications for grant awards, conducting a thorough review of proposed grant applications, making recommendations to the board regarding the size and condition of grant awards, and any other duty assigned by the board in relation to the programs administered by the center.

(4) A majority of the committee members constitutes a quorum of the committee.

b. A loan committee, the purpose of which shall be to assist the board in making loan awards under the center's programs, including the alternate energy revolving loan program.

(1) The loan committee is an advisory body comprised of voting members of the board who are selected annually by the voting members of the board. The membership and size of the committee as well as the terms of the committee members will be established annually by the board.

(2) The members of the loan committee will elect a chairperson. The chairperson may appoint members of the loan committee to serve on a loan committee subcommittee if necessary. Such a subcommittee is advisory only and may perform such duties as may be assigned by the chairperson.

(3) The duties of the loan committee may include reviewing applications for loans, conducting a thorough review of proposed loan applications, making recommendations to the board regarding the size and condition of loans, and any other duty assigned by the board in relation to the programs administered by the center.

(4) A majority of the committee members constitutes a quorum of the committee.

These rules are intended to implement Iowa Code section 15.120.

[Filed 9/14/18, effective 11/14/18]

[Published 10/10/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/10/18.

ARC 4064C**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed****Rule making related to administrative disqualification hearing**

The Human Services Department hereby amends Chapter 7, “Appeals and Hearings,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 217.6.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 217.6 and 7 CFR 273.16(f).

Purpose and Summary

Federal regulations give states the option of establishing procedures to allow individuals accused of an intentional Food Assistance Program violation to waive their right to an administrative disqualification hearing. With the recommendation of the USDA Food and Nutrition Service (FNS), the Department has decided to take advantage of this option.

The Department is responsible for investigating any case of alleged intentional program violation. The Department will notify a food assistance household when a member of that household has been charged with intentionally violating Food Assistance Program rules. Currently, the Department’s only options to ensure appropriate cases are acted upon are through an administrative disqualification hearing or through criminal prosecution by a court of an appropriate jurisdiction.

The amendments give household members who are suspected of an intentional program violation an opportunity to waive their right to an administrative disqualification hearing if they so choose. Form 470-5530, Waiver of Right to an Administrative Disqualification Hearing, has been developed for this purpose.

If the household member chooses to sign the form, the member will be disqualified from participating in the Food Assistance Program for a specified time and agrees to repay any overpayment associated with the violation. No administrative disqualification hearing will be held. The same disqualification penalty will be imposed if the individual chooses to give up the administrative disqualification hearing and signs the waiver form or if the individual participates in the hearing and is found guilty by an administrative law judge.

No further administrative appeal procedure exists after an individual waives the individual’s right to an administrative disqualification hearing and a disqualification penalty has been imposed.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 1, 2018, as **ARC 3907C**. The Department received no comments during the public comment period. Changes were made in Item 5 to standardize rule language.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on September 12, 2018.

Fiscal Impact

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

HUMAN SERVICES DEPARTMENT[441](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 441—1.8(17A,217).

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 December 1, 2018.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** paragraph **7.8(6)“f”**:

f. An individual has waived the individual's right to an administrative disqualification hearing, agreed to repay any overpayment and agreed to be disqualified from the food assistance program for the period specified by signing and returning Form 470-5530, Waiver of Right to an Administrative Disqualification Hearing.

ITEM 2. Amend paragraph **7.10(3)“b”** as follows:

b. The appeals of those appellants who are denied a hearing shall not be closed until issuance of a letter to the appellant and the appellant's representative, advising of the denial of hearing and the basis upon which that denial is made. Any appellant ~~that~~ who disagrees with a denial of hearing may present additional information relative to the reason for denial and request reconsideration by the appeals section or a hearing over the denial within 30 calendar days of the date on the denial letter.

ITEM 3. Amend subrule 7.16(9) as follows:

7.16(9) Opportunity for oral presentation of appeal of the proposed decision. In cases where there is an appeal of a proposed decision, each party shall be afforded an opportunity to present oral arguments with the consent of the director. Any party wishing oral argument shall specifically request it. When oral argument is granted, all parties shall be notified of the time and place.

ITEM 4. Amend paragraph **7.16(10)“a”** as follows:

a. A final decision on the appeal shall be issued within the following time frames:

(1) Appeals for all programs, except food assistance and intentional program violations, shall be rendered within 90 days from the date of the appeal.

(2) Food assistance-only decisions shall be rendered within 60 days.

(3) PROMISE JOBS displacement grievance decisions shall be rendered within 90 days from the date the displacement grievance was filed with the PROMISE JOBS contractee.

(4) Intentional program violation decisions shall be rendered within 90 days of the date the individual is notified in writing that a hearing initiated by the department has been scheduled. If the hearing was postponed pursuant to paragraph 7.21(4)“b,” the 90-day period for notifying the individual of the final decision shall be extended for as many days as the hearing is postponed.

ITEM 5. Amend rule 441—7.21(17A) as follows:

441—7.21(17A) Food assistance hearings and appeals.

HUMAN SERVICES DEPARTMENT[441](cont'd)

7.21(1) and **7.21(2)** No change.

7.21(3) Waiver of right to an administrative disqualification hearing. An individual accused of an intentional program violation may waive the individual's right to a food assistance administrative disqualification hearing.

a. When a case is referred for an administrative disqualification hearing, the appeals section shall advise the individual that the individual may waive the individual's right to an administrative disqualification hearing by signing and returning Form 470-5530, Waiver of Right to an Administrative Disqualification Hearing.

b. By signing the waiver, the individual gives up the right to an administrative disqualification hearing, agrees to repay any overpayment and agrees to be disqualified from the food assistance program for the period specified.

c. If the individual does not sign and return Form 470-5530, Waiver of Right to an Administrative Disqualification Hearing, within ten days of the date of the written notification, an administrative disqualification hearing shall be initiated.

d. Even after the administrative disqualification hearing is scheduled, the individual may sign and return Form 470-5530, Waiver of Right to an Administrative Disqualification Hearing, prior to or during the administrative disqualification hearing. The presiding officer shall dismiss the administrative disqualification hearing since the individual has agreed to repay any overpayment and agreed to be disqualified from the food assistance program.

e. The signed waiver shall carry the same penalties as the penalties for an individual found guilty in an administrative disqualification hearing.

f. No further administrative appeal procedure exists after an individual waives the individual's right to an administrative disqualification hearing and a disqualification penalty has been imposed. The disqualification penalty shall not be changed by a subsequent fair hearing decision. The individual is entitled to seek relief in a court having appropriate jurisdiction. The period of disqualification may be subject to stay by a court of appropriate jurisdiction or other injunctive remedy.

~~7.21(3)~~ **7.21(4)** Conduct of a food assistance administrative disqualification hearing. Hearings over disqualification of a household member for an intentional program violation shall be conducted by a presiding officer.

a. to c. No change.

~~7.21(4)~~ **7.21(5)** Consolidating hearings. Appeal hearings and food assistance administrative disqualification hearings may be consolidated if the issues arise out of the same or related circumstances, and the household member has been provided with notice of the consolidation by the department of inspections and appeals.

a. and b. No change.

~~7.21(5)~~ **7.21(6)** Attendance at hearing. The household member shall be allowed ten days from the scheduled hearing to present reasons indicating good cause for not attending the hearing.

a. to c. No change.

d. When good cause for failure to appear is based upon a showing of nonreceipt of the hearing notice, the household member has 30 days after the date of the proposed decision to claim good cause for failure to appear.

e. "Good cause" for purposes of this rule is defined as an emergency circumstance that is beyond the control of the party and that prevents the party from being able to participate in the hearing.

(1) Examples of good cause include, but are not limited to:

1. Sudden, severe illness or accident involving the party or the party's immediate family (spouse, partner, children, parents, sibling).

2. Death or serious illness in the party's immediate family.

3. Other circumstances evidencing an emergency situation which was beyond the party's control and was not reasonably foreseeable.

(2) Examples of circumstances that do not constitute good cause include, but are not limited to:

1. A lost or misplaced notice of hearing.

2. Confusion as to the date and time for the hearing.

HUMAN SERVICES DEPARTMENT[441](cont'd)

3. Failure to follow the directions on the notice of hearing.

4. Oversleeping.

5. Other acts demonstrating a lack of due care by the party.

~~7.21(6)~~ **7.21(7)** *Food assistance administrative disqualification hearing decisions.* The presiding officer shall base the determination of an intentional program violation on clear and convincing evidence that demonstrates the person committed, and intended to commit, an intentional program violation.

a. No change.

b. The appeals section shall notify the household member and the local office of the final decision within 90 days of the date the household member is notified in writing that the hearing has been scheduled. If the hearing was postponed pursuant to ~~subrule 7.21(3), paragraph “b,”~~ 7.21(4) “b,” the ~~90-day~~ 90-day period for notifying the household member of the final decision shall be extended for as many days as the hearing is postponed.

c. to e. No change.

[Filed 9/12/18, effective 12/1/18]

[Published 10/10/18]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 10/10/18.

ARC 4065C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to reimbursement for case management and targeted case management

The Human Services Department hereby amends Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 249A.4 and 2018 Iowa Acts, Senate File 2418, section 132.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 249A.4 and 2018 Iowa Acts, Senate File 2418, section 132.

Purpose and Summary

These amendments rescind rule language regarding fee for service with cost settlement for targeted case management (TCM). The amendments also revise the existing fee schedules for TCM and case management (CM) under the home- and community-based services waiver and habilitation programs.

TCM and CM provider agencies will no longer be required to submit an annual cost report. These amendments will allow the Department to standardize rates for TCM and CM provider agencies. These rates will apply only to members who are enrolled in Medicaid as fee for service.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 1, 2018, as **ARC 3911C**. The Department received comments from three respondents during the public comment period. The comments and the Department’s responses are as follows:

Comment 1: Why wasn’t state fiscal year (SFY) 2017 cost report information used instead of SFY 2016 in determining this new rate since it would be the most up-to-date information?

HUMAN SERVICES DEPARTMENT[441](cont'd)

Department response 1: The rate calculation was based on data from 61 agencies that finalized SFY 2016 cost reports. Fiscal year (FY) 2017 cost reports were not used because not all reports have been finalized.

In comparison, a review of calendar year (CY) 2018 data shows there are four providers billing code T1017 TCM and seven providers billing code T1016 CM; there is overlap of three providers between these two codes, so the total number of current providers is eight. A review of rates paid by those providers currently billing:

- The average paid unit rate for TCM is \$61.80.
- The average paid unit rate for CM is \$64.09.

The Department believes the new rate of \$64.60 is an accurate rate, whether based upon SFY 2016 cost reports or actual billed 2018 service rates.

Comment 2: Was this new rate based on only the cost reports from the existing case management agencies in Polk and Johnson Counties plus the Department? It does not seem relevant to include information from agencies that no longer provide case management services.

Department response 2: See the Department's response to comment 1 above.

Comment 3: What formula did the Department use to calculate wage inflation since it varies from county to county?

Department response 3: The Iowa Medicaid Enterprise (IME) uses the subscription service Data Resources, Inc., which provides to subscribers the Healthcare Cost Service Fourth Quarter 2017 Forecast.

Comment 4: Can the Department provide a source, or a copy, of the statewide fee schedule that was used?

Department response 4: The Department assumes this comment refers to inflation factor data. Because the inflation data was provided through a subscription service, the State of Iowa is not able to provide the information.

Comment 5: I am interested in seeing the computations that determined fiscal neutrality. How is there no fiscal impact? With decreasing rates there should be cost savings somewhere.

Department response 5: Of those providers who have billed claims in 2018:

- One provider will have a decrease in rate. This provider billed only 8 percent of CM claims and only 8 percent of TCM claims.
- Six providers will have an increase in rate. These providers account for 12 percent of CM claims and 23 percent of TCM claims.
- One provider has a negligible change in rate (\$.40). Because this provider bills 80 percent of CM claims and 69 percent of TCM claims, the overall cost for TCM/CM will remain neutral.
- Overall, the impact of individual rate increases or decreases will be fiscally neutral.
- Computations and provider data have been supplied to Johnson County via RFI S19-0127.

Comment 6: Please explain how your analysis determined there would be no impact on jobs. Is this state-related only? Or does the analysis include all existing providers?

Department response 6: The statement regarding jobs impact is concerned with the effect on private-sector jobs and employment opportunities in Iowa. The Department has determined that a new rate will not impact the volume of services to be provided; staff will continue to be needed to provide the services.

Comment 7: Is there a mechanism for a case management agency to submit an exception to policy to this new rate? If so, what is it?

Department response 7: Exceptions to policy may be granted to the Department's rules, but exceptions to policy cannot be granted for rules that are based on federal policy or state law. The change to the TCM rate was authorized in 2018 Iowa Acts, Senate File 2418, division XXVI, section 132 (cost-based reimbursement), during the Iowa Legislative Session. The legislation states: "Effective July 1, 2018, the targeted case management services shall be reimbursed based on a statewide fee schedule amount developed by rule of the department pursuant to chapter 17A."

Because state law directs the Department to create the rate, no exception to policy can be granted by the Department.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Comment 8: How does client choice figure into this new rule if any of the existing case management agencies are forced to close? There may only be one case management agency operating in various parts of the state.

Department response 8: The Department does not predict that providers will choose to close because of the rate change. Since most active providers will see a rate increase, there would be no reason for those providers to choose to close based upon this factor. Provider choice is applied to the options that are available to a member, and those options would be enrolled providers and the geographic areas covered by those enrolled providers.

The Department has not changed the amendments in this rule making based on the comments from the respondents. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on September 12, 2018.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

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 December 1, 2018.

The following rule-making actions are adopted:

ITEM 1. Rescind and reserve paragraph **79.1(1)“d.”**

ITEM 2. Amend subrule **79.1(2)**, provider categories “HCBS waiver service providers,” “Home- and community-based habilitation services” and “Targeted case management providers,” as follows:

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
HCBS waiver service providers, including:		Except as noted, limits apply to all waivers that cover the named provider.
1. to 16. No change.		
17. Case management	Fee for service with cost settlement. See 79.1(1)“d” <u>Fee schedule</u>	For brain injury and elderly waivers: Retrospective cost-settled rate. <u>Fee schedule in effect 7/1/18.</u>

HUMAN SERVICES DEPARTMENT[441](cont'd)

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
18. to 35. No change.		
Home- and community-based habilitation services:		
1. Case management	<u>Fee schedule.</u> See 79.1(24) "d"	Retrospective cost settled rate. <u>Fee schedule in effect 7/1/18.</u>
2. to 5. No change.		
Targeted case management providers	Fee for service with cost settlement. See 79.1(1) "d." <u>Fee schedule</u>	Retrospective cost settled rate. <u>Fee schedule in effect 7/1/18.</u>

ITEM 3. Amend subrule 79.1(24) as follows:

79.1(24) Reimbursement for home- and community-based habilitation services. ~~Reimbursement for case management, job development, and employer development services provided prior to July 1, 2013, is based on a fee schedule developed using the methodology described in paragraph 79.1(1) "d."~~ Reimbursement for home-based habilitation, day habilitation, prevocational habilitation, enhanced job search and supports to maintain employment services provided prior to July 1, 2013, is based on a retrospective cost-related rate calculated using the methodology in paragraphs 79.1(24) "b" and "c." Reimbursement for all home- and community-based habilitation services provided on or after July 1, 2013 January 1, 2016, shall be as provided in paragraph 79.1(24) "d." All rates are subject to the upper limits established in subrule 79.1(2).

a. to c. No change.

d. *Reimbursement for services provided on or after July 1, 2013 January 1, 2016.*

(1) ~~For dates of services July 1, 2013, through December 31, 2013, providers shall be reimbursed by the Iowa Plan for Behavioral Health contractor at the fee schedule or interim rate for the service and the provider in effect on June 30, 2013, with no retrospective adjustment or cost settlement. However, if a provider fails to submit a cost report for services provided prior to July 1, 2013, that meets the requirements of paragraph 79.1(24) "b," the Iowa Plan for Behavioral Health contractor shall reduce the provider's reimbursement rate to 76 percent of the rate in effect on June 30, 2013. The reduced rate shall be paid until acceptable cost reports for all services provided prior to July 1, 2013, have been received.~~

(2) ~~For dates of services from January 1, 2014, through December 31, 2015, providers shall be reimbursed by the Iowa Plan for Behavioral Health contractor at the rate negotiated by the provider and the contractor. However, if a provider fails to submit a cost report for services provided prior to July 1, 2013, that meets the requirements of paragraph 79.1(24) "b," the Iowa Plan for Behavioral Health contractor shall reduce the provider's reimbursement rate to 76 percent of the negotiated rate. The reduced rate shall be paid until acceptable cost reports for all services provided prior to July 1, 2013, have been received.~~

(3) (1) For dates of services on or after January 1, 2016, ~~providers habilitation services, except for case management, shall be reimbursed by fee schedule. Case management will continue to be reimbursed by retrospective cost settlement.~~

(2) For dates of services on or after July 1, 2018, case management services shall be reimbursed by fee schedule.

[Filed 9/12/18, effective 12/1/18]

[Published 10/10/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/10/18.

ARC 4066C**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed****Rule making related to home health agency reimbursement**

The Human Services Department hereby amends Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 249A.4 and 2018 Iowa Acts, Senate File 2418, section 39.

Purpose and Summary

This amendment adjusts home health agency low utilization payment adjustment (LUPA) rates to reflect approximately \$1 million in additional state appropriations for reimbursement in accordance with 2018 Iowa Acts, Senate File 2418, section 39.

This amendment will increase home health agency provider rates.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 1, 2018, as **ARC 3909C**. The Department received no comments during the public comment period. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on September 12, 2018.

Fiscal Impact

This rule making has a fiscal impact to the State of Iowa of \$100,000 annually or \$500,000 over five years. This change was authorized in 2018 Iowa Acts, Senate File 2418, section 39: home health reimbursement adjustment to approximate an increase of \$1 million in state dollars. The legislation indicates a July 1, 2018, effective date. The additional cost to the State is budget-neutral since Senate File 2418 provides an appropriation for this change. The increase will apply to both fee-for-service and managed care units.

Jobs Impact

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

Waivers

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

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

HUMAN SERVICES DEPARTMENT[441](cont'd)

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

Effective Date

This rule making will become effective on December 1, 2018.

The following rule-making action is adopted:

Amend subrule **79.1(2)**, provider category "Home health agencies," as follows:

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
Home health agencies		
1. Skilled nursing, physical therapy, occupational therapy, speech therapy, home health aide, and medical social services; home health care for maternity patients and children	Fee schedule. See 79.1(26). For members living in a nursing facility, see 441—paragraph 81.6(11)“r.”	Effective 7/1/18 <u>7/1/18</u> : Medicare LUPA rates in effect on 6/30/16 <u>6/30/18</u> plus a 2.93 <u>3</u> % increase.

2. and 3. No change.

[Filed 9/12/18, effective 12/1/18]

[Published 10/10/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/10/18.

ARC 4067C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to inpatient hospital readmission policy

The Human Services Department hereby amends Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

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

Purpose and Summary

This amendment revises the current inpatient hospital 30-day readmission policy to exclude readmissions that are planned for repetitive or staged treatments and to clarify that the policy does not apply to critical access hospitals.

This amendment more closely aligns the Department's rules with federal Medicare standards and policies and will result in lower cost savings to the Medical Assistance Program as compared to cost savings under the current readmission policy. The change in policy will result in a smaller number of inpatient hospital readmissions for the same condition based on the exclusion of planned readmissions for repetitive or staged treatments.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 1, 2018, as **ARC 3923C**. The Department received no comments on this rule making during the public comment period. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on September 12, 2018.

Fiscal Impact

This rule making has a fiscal impact to the State of Iowa of \$100,000 annually or \$500,000 over five years. This amendment applies to fee-for-service reimbursement only and does not apply to managed care organizations. Criteria were established to isolate claims that will be impacted by this rule making. Claims were then pulled with paid dates between July 1, 2016, and June 30, 2017. Forty of those claims met the established criteria. The federal match rate is assumed to be 68.25 percent based on the estimated blend between regular Medicaid and Iowa Health and Wellness Plan inpatient claims.

Jobs Impact

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

Waivers

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

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 14, 2018.

The following rule-making action is adopted:

Amend subparagraph **79.1(5)“g”(5)** as follows:

(5) Inpatient readmissions within 30 days for same condition. Effective for dates of service on or after July 1, 2015, when an inpatient is discharged or transferred from an acute care hospital and is readmitted as an inpatient to the same hospital within 30 days for the same condition, any claim for the subsequent inpatient stay shall be combined with the claim for the original inpatient stay and payment shall be under a single DRG for both stays. The readmission policy does not apply to the following:

1. Scheduled readmissions that are part of repetitive or periodic treatments; and
2. Critical access hospitals.

[Filed 9/12/18, effective 11/14/18]

[Published 10/10/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/10/18.

ARC 4068C**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed****Rule making related to pharmacy copayment**

The Human Services Department hereby amends Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

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

Purpose and Summary

This amendment makes the pharmacy copayment a flat copayment of \$1 per prescription or refill. Consistent with federal regulations and state legislative requirement, the copayment will no longer be based on the preferred or nonpreferred status of the drug on the preferred drug list (PDL).

This amendment is technical in nature because this copayment policy of \$1 per prescription or refill has been in place to implement the federal final rule (CMS-2334-F) requirement. The copayment requirement provides that a nonpreferred drug copay must be limited to the amount of a preferred drug copay when the nonpreferred drug is deemed medically necessary by the prescribing provider. Since implementation of this final rule, all Medicaid drug copayments are the preferred amount of \$1 because a Medicaid member would not get a nonpreferred drug unless the drug was medically necessary.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 1, 2018, as **ARC 3906C**. The Department received no comments on this rule making during the public comment period. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on September 12, 2018.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

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

HUMAN SERVICES DEPARTMENT[441](cont'd)

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 December 1, 2018.

The following rule-making action is adopted:

Amend paragraph **79.1(13)“a”** as follows:

a. The member shall pay a copayment of \$1 for each covered prescription or refill of any covered drug, as follows:

~~(1) One dollar for generic drugs and preferred brand-name drugs. Any brand-name drug that is not subject to prior approval based on nonpreferred status on the preferred drug list published by the department pursuant to Iowa Code section 249A.20A shall be treated as a preferred brand-name drug.~~

~~(2) Rescinded IAB 7/6/05, effective 7/1/05.~~

~~(3) One dollar for nonpreferred brand-name drugs for which the cost to the state is less than \$25.~~

~~(4) Two dollars for nonpreferred brand-name drugs for which the cost to the state is \$25.01 to \$50.~~

~~(5) Three dollars for nonpreferred brand-name drugs for which the cost to the state is \$50.01 or more.~~

~~(6) For the purpose of this paragraph, the cost to the state is determined without regard to federal financial participation in the Medicaid program or to any rebates received.~~

[Filed 9/12/18, effective 12/1/18]

[Published 10/10/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/10/18.

ARC 4069C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to providers of family planning services

The Human Services Department hereby amends Chapter 87, “Family Planning Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 217.6 and section 217.41B as amended by 2018 Iowa Acts, Senate File 2418, section 83.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 217.6 and section 217.41B as amended by 2018 Iowa Acts, Senate File 2418, section 83.

Purpose and Summary

These amendments are in relation to a legislatively mandated change regarding distribution of funds and participating providers of the Family Planning Program (FPP).

Providers of family planning services will change to include a nonpublic entity that is a distinct location of a nonprofit health care delivery system, if the distinct location provides family planning services but does not perform abortions or maintain or operate as a facility where abortions are performed.

FPP members may be affected by these amendments because the provider network may expand. Additional providers will be eligible to participate in the FPP.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 1, 2018, as **ARC 3910C**. The Department received comments from one respondent during the public comment period. The summarized comments and the Department's response are as follows:

Comment: The respondent stated that their understanding of this change is to allow a small number of providers back in to the Family Planning Program (FPP) and that given this understanding, the respondent supports the amendments. But the respondent stated further that at its core, this program still eliminates a significant number of family planning providers available for participants in the program. Based on the very limited data available, the respondent believes that the number of patients enrolled in the program and providers offering services has dropped significantly, and that this underscores the need for that data to be tracked and publicly reported on an ongoing basis to allow lawmakers and the Department to understand the effectiveness of the current program.

The respondent stated that it is promising to see the legislature take interest in Iowans' reproductive and sexual health care and include more providers in the FPP, but that as it stands, the FPP has thus far failed to accomplish the outcomes of its previous iteration, the Iowa Family Planning Network (IFPN), and has created an environment of a contraceptive desert in Iowa.

The respondent expressed support for the amendments, but sent caution to the Administrative Rules Review Committee and the Iowa Legislature. The respondent encouraged the legislature to ensure Iowans' access to high-quality family planning services at the provider of their choice in the FPP.

Department response: The purpose of the amendment to state law was to continue offering family planning services and continue to restrict financial support only to eligible providers, which now includes a provider at a distinct location of a nonprofit health care delivery system, if the distinct location provides family planning services but does not perform abortions or maintain or operate as a facility where abortions are performed.

As defined in legislation, a "nonprofit health care delivery system" means an Iowa nonprofit corporation that controls, directly or indirectly, a regional health care network consisting of hospital facilities and various ambulatory and clinic locations that provide a range of primary, secondary, and tertiary inpatient, outpatient, and physician services.

The Department did not change the proposed amendments based on the respondent's comments. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on September 12, 2018.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

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

HUMAN SERVICES DEPARTMENT[441](cont'd)

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 14, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 87.7(1) as follows:

87.7(1) *Distribution of funds.* Distribution of family planning services program funds shall be made to eligible, approved, and participating family planning providers subject to rule 441—87.11(217). Eligible family planning providers shall not include any provider that performs abortions or that maintains or operates a facility where abortions are performed and must attest to this fact. Effective July 1, 2018, eligible family planning providers shall be interpreted to include a distinct location of a nonprofit health care delivery system, if the distinct location provides family planning services but does not perform abortions or maintain or operate as a facility where abortions are performed. For the purposes of this subrule, “nonprofit health care delivery system” means an Iowa nonprofit corporation that controls, directly or indirectly, a regional health care network consisting of hospital facilities and various ambulatory and clinic locations that provide a range of primary, secondary, and tertiary inpatient, outpatient, and physician services. For the purposes of this subrule, “abortion” does not include any of the following:

a. and *b.* No change.

ITEM 2. Amend subrule 87.11(1) as follows:

87.11(1) Providers must be enrolled with the Iowa Medicaid program, subject to rule 441—79.14(249A), and otherwise qualified to provide family planning services under Medicaid, subject to the limitations related to abortions, as specified above under subrule 87.7(1). Effective July 1, 2018, as a condition of eligibility as a provider under the family planning services program, each distinct location of a nonprofit health care delivery system shall enroll in the program as a separate provider, be assigned a distinct provider identification number, and complete an attestation that abortions are not performed at the distinct location. For the purposes of this subrule, “nonprofit health care delivery system” shall have the same meaning as provided under subrule 87.7(1).

ITEM 3. Amend **441—Chapter 87**, implementation sentence, as follows:

These rules are intended to implement ~~2017 Iowa Acts, House File 653, section 90~~ Iowa Code section 217.41B as amended by 2018 Iowa Acts, Senate File 2418, section 83.

[Filed 9/12/18, effective 11/14/18]

[Published 10/10/18]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 10/10/18.

ARC 4070C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Rule making related to minimum construction standards for hospitals

The Inspections and Appeals Department hereby amends Chapter 51, “Hospitals,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 10A.104(5) and 135B.7.

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 10A.104(5) and 135B.7.

Purpose and Summary

This rule making adopts by reference the 2018 Guidelines for Design and Construction of Hospitals provided by the Facility Guidelines Institute as the minimum construction standards for hospitals and off-site premises licensed under Iowa Code chapter 135B.

Public Comment and Changes to Rule Making

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 1, 2018, as **ARC 3918C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

The amendment was approved by the Hospital Licensing Board at its June 21, 2018, meeting. The State Board of Health initially reviewed the proposed amendment at its July 11, 2018, meeting, and approved the amendment at its September 12, 2018, meeting. This rule making was adopted by the Department on September 12, 2018.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on November 14, 2018.

The following rule-making action is adopted:

Amend rule 481—51.50(135B) as follows:

481—51.50(135B) Minimum standards for construction.

51.50(1) Minimum standards. Hospitals and off-site premises licensed under this chapter shall be built in accordance with the following construction standards.

a. Construction shall be in accordance with the standards set forth in the Guidelines for Design and Construction of Hospitals and Outpatient Facilities, ~~2014 edition, produced,~~ 2018 edition, published by the Facility Guidelines Institute.

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

~~b.~~ A critical access hospital as defined in rule 481—51.1(135B) shall meet the standards for construction set forth in Part 2.4 of the Guidelines for Design and Construction of Hospitals and Outpatient Facilities, 2014 edition, produced by the Facility Guidelines Institute.

~~e. b.~~ Existing hospitals, ~~critical access hospitals,~~ and off-site premises built in compliance with prior editions of the hospital construction guidelines will be deemed in compliance with subsequent regulations, with the exception of any new structural renovations, additions, functional alterations, or changes in utilization to existing facilities, which shall meet the standards specified in this subrule.

~~d. c.~~ The design and construction of a hospital or off-site premises shall be in conformance with the provisions of 661—Chapter 205.

~~e. d.~~ In jurisdictions without a local building code enforcement program, the construction shall be in conformance with the state building code, as authorized by Iowa Code section 103A.7, in effect at the time of plan submittal for review and approval. In jurisdictions with a local building code enforcement program, local building code enforcement must include both the adoption and enforcement of a local building code through plan reviews and inspections.

~~e.~~ In any case in which an applicable requirement of 661—Chapter 205 is inconsistent with an applicable requirement of the state building code, the hospital or off-site premises shall be deemed to be in compliance with the state building code requirement if the requirement of 661—Chapter 205 is met.

51.50(2) No change.

51.50(3) Variances. The director of the department may grant variances to building and construction guidelines as contained in the Guidelines for Design and Construction of Hospitals ~~and Outpatient Facilities, 2014 edition,~~ 2018 edition. The hospital or off-site premises must submit a variance request in writing to the director. The request must demonstrate how patient safety and the quality of care offered will not be compromised by the variance. The facility must demonstrate its ability to completely fulfill all other requirements of the service. The director shall make a written determination of the request. In determining whether a variance request shall be granted, the director shall give consideration to the following conditions and to any other conditions the director deems relevant:

~~a. to f.~~ No change.

[Filed 9/12/18, effective 11/14/18]

[Published 10/10/18]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 10/10/18.

ARC 4071C

LABOR SERVICES DIVISION[875]

Adopted and Filed

Rule making related to beryllium standards

The Labor Commissioner hereby amends Chapter 10, “General Industry Safety and Health Rules,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 88.5.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 88.

Purpose and Summary

The Labor Commissioner is required by state law to adopt by reference changes to federal occupational safety and health standards. This rule making adopts the most recent in a series of changes

LABOR SERVICES DIVISION[875](cont'd)

to the occupational health standards concerning exposure to beryllium. The changes adopted by the federal Occupational Safety and Health Administration amend numerous definitions and clarify that certain methods of employee protection are not mandated where only trace amounts of beryllium are present.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 15, 2018, as **ARC 3955C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Commissioner on September 20, 2018.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. It is anticipated that compliance costs will be reduced for aluminum production facilities and coal-fired utilities as a result of these changes.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commissioner for a waiver of the discretionary provisions, if any, pursuant to 875—Chapter 5.

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 14, 2018.

The following rule-making action is adopted:

Amend rule **875—10.20(88)** by inserting the following at the end thereof:
83 Fed. Reg. 19948 (May 7, 2018)

[Filed 9/20/18, effective 11/14/18]

[Published 10/10/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/10/18.

ARC 4072C**NATURAL RESOURCE COMMISSION[571]****Adopted and Filed****Rule making related to license fees**

The Natural Resource Commission hereby amends Chapter 15, “General License Regulations,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 455A.5(6) and 483A.1 and 2018 Iowa Acts, House File 631.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2018 Iowa Acts, House File 631.

Purpose and Summary

Chapter 15 provides rules for license sales, refunds, and administration; implementation of the wildlife violator compact and penalties for multiple offenses; and administration of special licenses available for hunting and fishing, and it describes and implements certification and education programs of the Department of Natural Resources (Department). Previously, all fees for Department-issued fishing, hunting, fur harvester, and related licenses were established via statute and listed in Iowa Code section 483A.1. During the 87th General Assembly, 2018 Iowa Acts, House File 631, was passed, and on May 17, 2018, it was signed into law by Governor Kim Reynolds. House File 631 removes all license fees from Iowa Code section 483A.1 and directs the Commission to adopt administrative rules establishing such fees. House File 631 allows for an increase in those fees in this current rule making and grants the Commission the authority to institute future fee increases through the rule-making process. Lastly, House File 631 allows for the creation of a new five-day, nonresident hunting license. Currently, a nonresident must purchase an annual nonresident hunting license in order to hunt in Iowa as there is no option for a license covering a shorter period of time. This rule making creates a fee for this new license.

Chapter 15 is amended to provide a list of Department-issued licenses, primarily related to fishing, hunting, and fur harvesting, and their associated fees. This list is substantively the same as that which was previously found in the Iowa Code. Minor changes are made for clarity, including listing popular combinations of licenses/fees (e.g., annual hunting license plus the habitat fee) on a single line showing the total combined fee. License fees are increased by 0 to 20 percent over current levels, depending on the individual license type, resulting in a total increase in revenue of just under 17 percent. By law, this revenue is directed to the State Fish and Game Protection Trust Fund (Trust Fund). The Trust Fund is a constitutionally protected fund that can be spent only on fish and wildlife conservation activities within the state.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 1, 2018, as **ARC 3924C**.

A news release was issued on August 2, 2018, soliciting public comment on the proposed rule making and inviting the public to participate in the upcoming public hearings. This news release was sent to approximately 300 news outlets in Iowa, along with about 20,700 subscribers to Iowa Outdoor News. Public hearings were held across the state on August 21, 2018, from 12 noon to 2 p.m.

NATURAL RESOURCE COMMISSION[571](cont'd)

The vast majority of comments that were received were positive. Comments not supporting this rule making centered on the premise that hunting and fishing license fees are already too high and should not be raised any further.

Of the 402 public comments received, 82 percent supported the rule making. In review of the comments, some of the supporters noted they would like to see fees higher than what was proposed for most hunting and fishing licenses. Comments not supporting the rule making noted that hunting and fishing license fees were either already appropriate or too high and should not be raised. Other comments from both supporters and nonsupporters of the rule making were regarding raising alternative sources of revenue including funding the Iowa's Water and Land Legacy (IWILL) initiative, raising fees on nonresidents, and implementing new fees for nonconsumptive users of Iowa's natural resources such as hikers, wildlife watchers, and kayakers.

No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Commission on September 13, 2018.

Fiscal Impact

This rule making has a fiscal impact to the State of Iowa. The license fee increases in this rule making will result in an estimated annual increase in revenue to the Trust Fund of \$4.5 million over the fee levels previously found in Iowa Code section 483A.1. Approximately \$3.1 million of this increase will come from license purchases by Iowa residents; the remaining \$1.4 million of this increase will result from license purchases by nonresidents. The license fee increase will allow the Department to maintain the current level of service provided and in some cases restore services that had been previously reduced. 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. The following types of jobs are positively impacted by fishing, hunting, and trapping generally in the state of Iowa, none of which should see a noticeable change due to this rule making: equipment retailers (weapons, ammunition, clothing, chairs, stands, binoculars, and other supporting equipment); field guides and outfitters; taxidermists; and restaurants, hotels, and gas stations for hunters and anglers traveling around the state. Iowa's 579,000 hunters and anglers support Iowa's economy through spending more than \$779 million annually while engaged in their pursuits. This spending accounts for approximately 11,548 jobs and generates \$77 million in state and local taxes (see Iowa Hunting and Fishing Day Proclamation, signed by Governor Reynolds on September 21, 2017). A copy of the impact statement is available from the Department upon request.

Waivers

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

Review by Administrative Rules Review Committee

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

NATURAL RESOURCE COMMISSION[571](cont'd)

Effective Date

This rule making will become effective on December 15, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend rule 571—15.1(483A) as follows:

571—15.1(483A) Scope. The purposes of this chapter are to provide rules for license fees, sales, refunds and administration; implement the wildlife violator compact and penalties for multiple offenses; administer special licenses available for hunting and fishing; and describe and implement certification and education programs of the department of natural resources.

ITEM 2. Adopt the following new rule 571—15.12(483A):

571—15.12(483A) Licenses—fees. Except as otherwise provided by law, a person shall not fish, trap, hunt, harvest, pursue, catch, kill, take in any manner, use, have possession of, sell, or transport all or a part of any wild animal, bird, game, turtle, or fish, the protection and regulation of which is desirable for the conservation of resources of the state, without first obtaining a license for that purpose and paying a fee as follows:

15.12(1) Residents.

- a. Fishing license, annual — \$20.
- b. Fishing license, three-year — \$60.
- c. Fishing license, seven-day — \$13.50.
- d. Fishing license, one-day — \$8.50.
- e. Third-line fishing permit, annual — \$12.
- f. Fishing license, lifetime, 65 years of age or older — \$59.50.
- g. Fishing license, lifetime, disabled veteran or POW — \$5.
- h. Paddlefish fishing license, annual — \$23.50.
- i. Trout fishing fee — \$12.50.
- j. Boundary waters sport trotline license, annual — \$24.
- k. Hunting license, annual — \$20.
- l. Hunting license, annual, including the wildlife habitat fee — \$33.
- m. Hunting license, three-year, including the wildlife habitat fee — \$99.
- n. Hunting license, lifetime, 65 years of age or older — \$59.50.
- o. Combination hunting and fishing license, annual, including the wildlife habitat fee — \$53.
- p. Combination hunting and fishing license, lifetime, disabled veteran or POW — \$5.
- q. Deer hunting license — \$30.
- r. First antlerless deer license — \$25.50.
- s. Additional antlerless deer license — \$12.
- t. Wildlife habitat fee — \$13.
- u. Migratory game bird fee — \$10.
- v. Wild turkey hunting license — \$26.50.
- w. Fur harvester license, annual — \$24.
- x. Fur harvester license, annual, including the wildlife habitat fee — \$37.
- y. Fur harvester license, annual, under 16 years of age — \$5.50.
- z. Fur harvester license, lifetime, 65 years of age or older — \$59.50.
- aa. Fur dealer license, annual — \$264.
- bb. Aquaculture unit license, annual — \$30.
- cc. Retail bait dealer license, annual — \$36.
- dd. Wholesale bait dealer license, annual — \$146.50.
- ee. Game breeder license, annual — \$18.
- ff. Taxidermy license, annual — \$18.

15.12(2) Nonresidents.

NATURAL RESOURCE COMMISSION[571](cont'd)

- a. Fishing license, annual — \$46.
- b. Fishing license, seven-day — \$35.50.
- c. Fishing license, three-day — \$18.50.
- d. Fishing license, one-day — \$10.
- e. Third-line fishing permit, annual — \$12.
- f. Paddlefish fishing license, annual — \$47.
- g. Trout fishing fee — \$15.50.
- h. Boundary waters sport trotline license, annual — \$47.50.
- i. Hunting license, annual — \$129.
- j. Hunting license, annual, including the wildlife habitat fee — \$142.
- k. Hunting license, annual, under 18 years of age — \$30.
- l. Hunting license, annual, under 18 years of age, including the wildlife habitat fee — \$43.
- m. Hunting license, five-day (not applicable to deer or wild turkey seasons) — \$75.
- n. Hunting license, five-day, including the wildlife habitat fee (not applicable to deer or wild turkey seasons) — \$88.
- o. Deer hunting license, antlered or any-sex deer — \$345.50.
- p. Deer hunting license, antlerless-deer-only, required with the purchase of an antlered or any-sex deer hunting license — \$146.50.
- q. Deer hunting license, antlerless-deer-only — \$263.50.
- r. Preference point issued under Iowa Code section 483A.7(3) “b” or 483A.8(3) “e” — \$58.50.
- s. Holiday deer hunting license issued under Iowa Code section 483A.8(6), antlerless-deer-only — \$88.
- t. Wildlife habitat fee — \$13.
- u. Migratory game bird fee — \$10.
- v. Wild turkey hunting license, annual — \$117.
- w. Fur harvester license, annual — \$232.
- x. Fur harvester license, annual, including the wildlife habitat fee — \$245.
- y. Fur dealer license, annual — \$586.50.
- z. Fur dealer license, one day, one location — \$292.50.
- aa. Location permit for fur dealer — \$66.
- bb. Aquaculture unit license, annual — \$66.
- cc. Retail bait dealer license, annual — \$146.50.
- dd. Wholesale bait dealer license, annual — \$292.50.
- ee. Game breeder license, annual — \$30.50.
- ff. Taxidermy license, annual — \$30.50.

[Filed 9/19/18, effective 12/15/18]

[Published 10/10/18]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 10/10/18.

ARC 4073C

PHARMACY BOARD[657]

Adopted and Filed

Rule making related to correctional pharmacy practice rules

The Board of Pharmacy hereby amends Chapter 15, “Correctional Pharmacy Practice,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 124.301 and 147.76.

PHARMACY BOARD[657](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 124.303, 124.306, 124.308, 126.10, 126.11, 155A.6A, 155A.6B, 155A.10, 155A.13, 155A.27, 155A.28, 155A.31 to 155A.36 and 155A.41.

Purpose and Summary

Pursuant to Iowa Code section 17.7(2), the Board has completed a review of this chapter of administrative rules. The amendments update the required references to be maintained in a reference library in order to be consistent with recent Board action for other practice settings, remove the requirement that the policies and procedures identify the hours of operation of the pharmacy, clarify the record retention requirements for training documentation, and add the option of an electronic signature on prescription drug orders.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 20, 2018, as **ARC 3848C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on September 19, 2018.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 657—Chapter 34.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on November 14, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend rule 657—15.4(155A) as follows:

657—15.4(155A) Reference library. ~~References may be printed or computer accessed. Each correctional pharmacy shall have on site, at a minimum, one current~~ maintain a reference from each of the following categories, including access to current periodic updates ~~library, which is either printed or~~

PHARMACY BOARD[657](cont'd)

computer-accessed and which adequately meets the needs of the services provided and patients served.

Examples of references include:

1. A reference including all pertinent Iowa laws, rules, and regulations that impact the pharmacy's practice.
2. A patient information reference that includes or provides patient information in compliance with rule 657—6.14(155A).
3. A reference on drug interactions.
4. A ~~general~~ drug information reference.
5. A drug equivalency reference.
6. A reference on natural or herbal medicines.
7. The readily accessible telephone number of a poison control center that serves the area.
8. ~~Additional references as may be necessary for the pharmacist to adequately meet the needs of the patients served~~ relating to specific patient populations served.

ITEM 2. Amend subrule 15.5(3) as follows:

15.5(3) Pharmacist responsibility. Each pharmacist, while on duty, shall be responsible for the security of the correctional pharmacy. This responsibility includes provisions for effective control against theft of, diversion of, or unauthorized access to prescription drugs or devices, controlled substances, records for such drugs and devices, and patient records as provided in 657—Chapter 21 and rule 657—8.16(124,155A). ~~Policies and procedures shall identify the days and hours the pharmacy shall be open.~~ A pharmacist shall be on site during all times that the pharmacy is open.

ITEM 3. Amend rule 657—15.7(124,126,155A) as follows:

657—15.7(124,126,155A) Training and utilization of pharmacy technicians or pharmacy support persons. Pharmacy technician and pharmacy support person training shall be documented and maintained by the pharmacy for ~~the duration of~~ at least two years from the last date of employment. Policies and procedures and documentation of pharmacy technician and pharmacy support person training shall be available for inspection by the board or an agent of the board.

ITEM 4. Amend subrule 15.8(1) as follows:

15.8(1) Required information. Prescription drug orders written in patient health records shall include the following information:

- a. Patient name, identification number, and correctional facility location;
- b. Drug name, strength, dosage form, and quantity or duration;
- c. Directions for use of the drug;
- d. Date the prescription drug order is authorized;
- e. Prescriber's name, signature or electronic signature, and office address;
- f. Prescriber's DEA number for controlled substances.

[Filed 9/20/18, effective 11/14/18]

[Published 10/10/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/10/18.

ARC 4074C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rule making related to outpatient diabetes education programs

The Public Health Department hereby amends Chapter 9, "Outpatient Diabetes Education Programs," Iowa Administrative Code.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 135.11(12).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 514C.

Purpose and Summary

Chapter 9 describes the standards for outpatient diabetes self-management education programs and the procedures that programs must follow to obtain certification by the Iowa Department of Public Health. The certification is required, pursuant to Iowa Code section 514C.18, in order for programs to obtain third-party reimbursement of the costs associated with the required self-management training and education program. The amendments change the period of time for which a certification is valid from three years to four years and change the number of staff continuing education hours to align with the addition of one year to the period of certification.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 18, 2018, as **ARC 3898C**. The Department received one comment unrelated to the proposed changes and one comment requesting that the word “persons” be replaced with “Iowa-licensed professionals” in both subrules 9.4(4) and 9.5(4). The wording change was accepted to clarify that not all of the people named in subrules 9.4(3) and 9.5(3) are required to have professional licenses and that only the ones who must have licenses will have to submit a copy. In addition, the word “Iowa” before the word “licenses” was removed in both subrules 9.4(4) and 9.5(4) because it was redundant with the new language. Also, in subrule 9.9(1), “for all Iowa-licensed professionals” was added to clarify that only those persons with licenses are required to submit copies of their licenses.

Adoption of Rule Making

This rule making was adopted by the State Board of Health on September 12, 2018.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Effective Date

This rule making will become effective on November 14, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend rule **641—9.2(135)**, definition of “Physician,” as follows:

“*Physician*” means a person currently licensed to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy under Iowa Code ~~chapters~~ chapter 148 ~~and 150A~~.

ITEM 2. Amend subrule 9.3(5) as follows:

9.3(5) Assign a program site number and an expiration date and issue a certificate to each program that meets the standards. A certificate shall be valid for ~~three~~ four years from issuance unless specified otherwise on the certificate or unless sooner revoked.

ITEM 3. Amend rule 641—9.4(135) as follows:

641—9.4(135) Application procedures for American Diabetes Association-recognized and American Association of Diabetes Educators-accredited programs. When a program is recognized by the American Diabetes Association or accredited by the American Association of Diabetes Educators, the program shall apply for certification by submitting the following to the department ~~by submitting a:~~

9.4(1) A copy of the Certificate of Recognition provided by ADA or the Certificate of Accreditation provided by AADE, ~~the~~

9.4(2) The name, address and telephone number for the program, ~~the name.~~

9.4(3) The names of the program coordinator and the name of the program physician, primary and supporting instructors, and advisory committee members. ~~In addition, since the ADA recognition and the AADE accreditation programs do not require the participation of a pharmacist but the Iowa law does, ADA-recognized and AADE-accredited programs shall submit the name(s), license number(s) and continuing education hours of the pharmacist(s)~~

9.4(4) Copies of current licenses for all Iowa-licensed professionals named in 9.4(3).

9.4(5) The name and a copy of both the Iowa licenses and continuing education hours of any pharmacist who serves as program staff. A pharmacist shall be a primary or supporting instructor or advisory committee member and shall meet the education requirements in 9.8(6), 9.8(7) or 9.8(8).

ITEM 4. Amend rule 641—9.5(135) as follows:

641—9.5(135) Renewal procedures for American Diabetes Association-recognized and American Association of Diabetes Educators-accredited programs. Programs shall renew their certification every four years, at least 30 days prior to the expiration date. To apply for renewal of certification, the ADA-recognized program or the AADE-accredited program shall submit a the following to the department:

9.5(1) A copy of the new ADA Certificate of Recognition or AADE Certificate of Accreditation, ~~the~~

9.5(2) The name, address and telephone number for the program, ~~the name.~~

9.5(3) The names of the program coordinator, the name of the program physician, and the name(s), license number(s), and continuing education hours of the pharmacist(s) primary and supporting instructors, and advisory committee members.

9.5(4) Copies of current licenses for all Iowa-licensed professionals named in 9.5(3).

9.5(5) The name and a copy of both the Iowa licenses and continuing education hours of any pharmacist who serves as program staff. A pharmacist shall be a primary or supporting instructor or advisory committee member and shall meet the continuing education requirements in 9.9(7).

ITEM 5. Amend paragraph **9.6(2)“a”** as follows:

a. Name, address and telephone number for the program, program physician and program coordinator. The names of instructional staff and advisory committee members and copies of their current Iowa licenses shall also be included.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 6. Amend subparagraph **9.6(2)“e”(8)** as follows:

(8) Reducing risks: includes prevention, detection, and treatment of acute complications and chronic complications; as well as foot, skin and dental care; immunizations; and kidney function.

ITEM 7. Amend subrules 9.8(5) to 9.8(8) as follows:

9.8(5) ~~The names and license or registration numbers of the program physician, program coordinator, and all primary and supporting instructors, and advisory committee members shall be included with the program application, with copies of their current Iowa licenses.~~

9.8(6) All primary instructors shall show evidence of knowledge about the disease process of diabetes and the treatment and management of people with diabetes by documentation of one or more of the following:

a. Within the last ~~three~~ four years, completion of a minimum of ~~24~~ 32 hours of continuing education in diabetes, diabetes management, or diabetes education; or

b. Equivalent training or experience including, but not limited to, endocrinology fellowship training or masters level preparation in diabetes nursing/nutrition. Unsupervised teaching of patients is not an acceptable equivalent.

c. Current certification as a certified diabetes educator.

9.8(7) All supporting instructors shall show evidence of knowledge about the disease process of diabetes and the treatment and management of people with diabetes by documentation of completion of a minimum of ~~12~~ 16 hours of continuing education in diabetes, diabetes management, or diabetes education within the last ~~three~~ four years or have current certification as a certified diabetes educator.

9.8(8) The four professionals required in 9.8(2) to be on the advisory committee shall have completed ~~six~~ eight hours of continuing education in diabetes within the past ~~three~~ four years.

ITEM 8. Amend subrule 9.9(1) as follows:

9.9(1) Name, address and telephone number of the program, program physician and program coordinator, with names of instructional staff and advisory committee members and copies of current licenses for all Iowa-licensed professionals.

ITEM 9. Amend subrule 9.9(7) as follows:

9.9(7) Documentation of continuing education hours accrued since the previous application for current staff and new staff.

a. All primary instructors shall complete a minimum of ~~18~~ 24 hours of continuing education in diabetes, diabetes management, or diabetes education within the past ~~three~~ four years.

b. All supporting instructors shall complete a minimum of ~~nine~~ 12 hours of continuing education in diabetes, diabetes management, or diabetes education within the past ~~three~~ four years.

c. The four professionals required in 9.8(2) to be on the advisory committee shall complete a minimum of ~~five~~ seven hours of continuing education in diabetes within the past ~~three~~ four years.

[Filed 9/13/18, effective 11/14/18]

[Published 10/10/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/10/18.

ARC 4075C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rule making related to maternal and child health program

The Public Health Department hereby amends Chapter 76, “Maternal and Child Health Program,” Iowa Administrative Code.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 135.11.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 135.11.

Purpose and Summary

The maternal and child health (MCH) programs are operated by the Department as the designated agency pursuant to an agreement with the federal government. These amendments make minimal technical changes to improve efficiency and to align with current federal guidance. The amendments include:

1. Updating definitions to align with current practices.
2. Adopting MCH services by alignment with the federal MCH pyramid or logic model by reference.
3. Removing the requirement for community-based agencies to submit a letter of intent to apply for funding during a competitive application year.
4. Changing membership of the Maternal and Child Health Advisory Council so that one ex officio member is a representative from a local MCH contract agency rather than the chair (or designee) of the Bureau of Family Health grantee committee, Iowa Department of Public Health.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 6, 2018, as **ARC 3814C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the State Board of Health on September 12, 2018.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the Department's variance and 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 14, 2018.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

The following rule-making actions are adopted:

ITEM 1. Amend subrule 76.1(2) as follows:

76.1(2) Services.

a. The department's bureau of family health (BFH) enters into contracts with selected private nonprofit or public agencies for the assurance of access to prenatal and postpartum care for women, preventive and primary child health care services, and services to children and youth with special health care needs. ~~The types of services provided by these contracts are infrastructure building, population-based services, enabling services, and direct health care services.~~

b. The department's bureau of oral and health delivery systems (OHDS) collaborates with BFH to develop oral health programs to reduce barriers to oral health care and reduce dental disease through prevention.

c. The children and youth with special health care needs program is administered by the Child Health Specialty Clinics (CHSC) at the University of Iowa. The department contracts with the University of Iowa department of pediatrics' CHSC to provide services for children and youth with special health care needs, ~~including infrastructure building, direct clinical care, care coordination and family support.~~ In accordance with the MCH Title V Block Grant Program administered by DHHS, HRSA, and MCHB, the CHSC shall ensure that public health funds will be used to cover the cost of services only after all other sources of reimbursement have been exhausted.

ITEM 2. Rescind the definitions of "Health education," "Informing," "Nutrition counseling," "Oral health counseling," "Oral health education," "Parenting education," "Psychosocial services" and "Well-child health care" in rule **641—76.4(135)**.

ITEM 3. Adopt the following new definition of "Maternal and child health services" in rule **641—76.4(135)**:

"Maternal and child health services" means services provided through local contract agencies to meet the needs of the client. The types of services provided include infrastructure building, population-based services, enabling services, and direct health care services.

ITEM 4. Amend rule **641—76.4(135)**, definition of "Presumptive eligibility determination," as follows:

"Presumptive eligibility determination" means temporary Medicaid eligibility that pays for medical services while a formal Medicaid decision is being made by the Iowa department of human services. ~~For pregnant women, presumptive eligibility determination is based only on a woman's statement regarding her family income. A qualified provider can presume that the pregnant women who are Iowa residents will be eligible for Medicaid. Qualified providers can grant Medicaid coverage to these women to pay for the cost of ambulatory prenatal care. Presumptive Medicaid eligibility begins with the date the qualified provider determines the woman is eligible and continues through the last day of the next month. Presumptive eligibility is available for children, youth, and pregnant women.~~

ITEM 5. Rescind rule 641—76.5(135) and adopt the following new rule in lieu thereof:

641—76.5(135) MCH services. Maternal and child health services provided by contract agencies, as outlined in the annual application and contract for services, shall align with the MCH pyramid or model provided by the DHHS, HRSA, state policy manuals, and interagency agreements.

ITEM 6. Amend paragraph **76.6(2)"g"** as follows:

g. An individual whose income is above the poverty level established by Title XXI and below ~~300~~ 302 percent of the federal poverty guidelines will qualify for services on a sliding fee scale, as determined by the local agency's cost for the service. The department provides annual guidelines based on poverty levels established annually by DHHS. An individual whose income is at or above ~~300~~ 302 percent will qualify for services at full fee.

ITEM 7. Amend subrule 76.7(1) as follows:

76.7(1) A person or the parent or guardian of a minor desiring direct health services other than those provided to children and youth with special health care needs may apply to a contract agency using

PUBLIC HEALTH DEPARTMENT[641](cont'd)

a Health Services Application, Form 470-2927, or 470-2927(S), ~~Presumptive Eligibility. Individuals requesting presumptive eligibility must complete the Application for Health Care Coverage for Children Application and Help Paying Costs, Form 470-4855, 470-4855(S) 470-5192, or the alternate form authorized by the HAWK-I board.~~

ITEM 8. Amend rule 641—76.9(135) as follows:

641—76.9(135) Grant application procedures for community-based contract agencies. Private nonprofit or public agencies seeking to provide community-based Title V MCH public health services shall ~~file a letter of intent to make~~ submit an application to the department during the competitive year. ~~Applications shall be to administer MCH services for a specified project period, as defined in the request for proposal, with an annual continuation application. The contract period shall be from October 1 to September 30 annually. All~~ After a notice of award is made by the department, all materials submitted as part of the grant application are considered public records in accordance with Iowa Code chapter 22, ~~after a notice of award is made by the department.~~ Notification of the availability of funds and grant application procedures will be provided in accordance with the department rules found in 641—Chapter 176.

Contract agencies are selected on the basis of the grant applications submitted to the department. The department will consider only applications from private nonprofit or public agencies. In the event that competitive proposals receive an equal number of points, two department division directors and the respective bureau chief administering the program may conduct a second review utilizing the same scoring process.

ITEM 9. Amend subparagraph **76.23(2)“c”(2)** as follows:

(2) ~~The chair (or designee) of the bureau of family health grantee committee, Iowa department of public health~~ A representative from a local maternal and child health contract agency.

[Filed 9/13/18, effective 11/14/18]

[Published 10/10/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/10/18.

ARC 4076C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rule making related to rural health and primary care

The Public Health Department hereby amends Chapter 110, “Center for Rural Health and Primary Care,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 135.107 and 135B.33.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 135.107 and 135B.33.

Purpose and Summary

These amendments, which are in response to statutory changes enacted in 2017 Iowa Acts, House File 393, division III, sections 13 to 15, do the following:

1. Remove the definitions for “area health education center (AHEC),” “community grant program,” “primary care collaborative work group,” and “primary care provider community scholarship program.”

PUBLIC HEALTH DEPARTMENT[641](cont'd)

2. Change the name of the grant program provided under the primary care provider recruitment and retention endeavor (PRIMECARRE) from the “community grant program” to the “health care workforce and community support grant program.”

3. Make minor technical corrections to the duties and organization of the members of the advisory committee to the center for rural health and primary care and how often the committee meets.

4. Establish a flexible application process based on the Department’s strategic plan to be used by the center for rural health and primary care to establish a grant assistance program.

5. Add that the community or region must document its participation in the required community health services health assessment process.

6. Change the award limitations to allow grant awards to rural, underserved areas or special populations as identified by the Department’s strategic plan or evidence-based documentation.

7. Change the applicant’s matching fund requirement from “dollar-for-dollar match” to an optional match.

8. Remove the PRIMECARRE Primary Care Provider Community Scholarship Program.

9. Clarify that the health care provider will provide one year of obligated service in exchange for each year of loan repayment, unless federal requirements otherwise require.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 6, 2018, as **ARC 3815C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the State Board of Health on September 12, 2018.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the Department’s variance and 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 14, 2018.

The following rule-making actions are adopted:

PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 1. Amend rules 641—110.1(135) to 641—110.6(135) as follows:

641—110.1(135) Purpose and scope. The following rules developed by the department of public health govern the organization of the center for rural health and primary care within the bureau of oral and health delivery systems of the department of public health.

641—110.2(135,135B) Definitions.

~~“Area health education center (AHEC)” means the linking of university health centers with community based delivery systems in order to improve delivery of health care.~~

“Center for rural health and primary care” means the department of public health administrative entity that is responsible for provision of technical planning assistance to rural communities and counties, administration of a comprehensive primary care provider recruitment and retention endeavor, coordination of services to provide research of rural occupational health injuries and hazards, and coordination with the following: the center for agricultural health and safety, the center for health effects of environmental contamination, and the department of agriculture and land stewardship.

“Center for rural health and primary care advisory committee” means a group of individuals appointed by the governor, department directors and the Iowa legislature whose purpose is to provide advice and make recommendations on rural health issues to the center for rural health and primary care, department of public health.

~~“Community grant program” means a program that provides assistance in the form of a forgivable loan, grant, or other nonfinancial assistance to communities, to support the effort of a community which is part of the community’s long-term community health services assessment and developmental plan.~~

“Community health services assessment and developmental plan” means a comprehensive health services assessment and plan which has been developed through a community-wide communitywide collaborative effort of public and private entities, including citizens at large, located in rural communities.

“Department” means the Iowa department of public health.

“Director” means the director of the department of public health.

“Health care workforce and community support grant program” means a program that provides assistance in the form of a forgivable loan, grant, or other nonfinancial assistance to communities to support the effort of a community and that is part of the community’s long-term community health services assessment and developmental plan.

~~“Primary care collaborative work group” means a group of individuals who, at a minimum, represent the following entities, who are responsible for coordination of all statewide recruitment and retention activities and for recommendations related to the implementation of the primary care provider recruitment and retention endeavor (PRIMECARRE): University of Iowa college of medicine, University of Osteopathic Medicine and Health Sciences, University of Iowa physician assistant school, University of Iowa nurse practitioner school, University of Osteopathic Medicine and Health Sciences physician assistant program, Iowa-Nebraska primary care association, Iowa medical society, Iowa osteopathic medical association, Iowa chapter of American college of osteopathic family physicians, Iowa academy of family physicians, nurse practitioner association, Iowa nurses association, Iowa hospital association, and Iowa physician assistants association.~~

“Primary care health professional” means an individual who is providing primary health services, and is licensed to practice in the state of Iowa.

~~“Primary care provider community scholarship program” means a scholarship program that provides obligated service scholarships to eligible health professional students for qualifying educational expenses incurred to obtain the credentials in that profession in return for providing primary care services in health professional shortage areas in the state.~~

“Primary care provider loan repayment program” means a loan repayment for qualifying loans to eligible health professionals who choose to establish practices in designated health professional shortage areas of the state.

“Primary care provider recruitment and retention endeavor (PRIMECARRE)” or “PRIMECARRE” means a comprehensive primary health care initiative to promote and assist which promotes and assists

PUBLIC HEALTH DEPARTMENT[641](cont'd)

local efforts in developing health care provider recruitment and retention programs; and which includes a ~~community health care workforce and community support grant program; and a primary care provider loan repayment program; primary care provider community scholarships; and area health education centers.~~

“Primary health services” means health services regarding family practice, internal medicine, pediatrics, obstetrics and gynecology, dentistry, or mental health that are provided by physicians or other health professionals.

641—110.3(135) Responsibilities of the center.

110.3(1) The center for rural health and primary care shall provide technical planning assistance to rural communities and counties exploring innovative means of delivering rural health services through community health services assessment, planning, and implementation, including but not limited to hospital conversions, cooperative agreements among hospitals, physician and health practitioner support, recruitment and retention of primary health care providers, public health services, emergency medical services, medical assistance facilities, rural health care clinics, and alternative means which may be included in the long-term community health services assessment and developmental plan.

110.3(2) The center for rural health and primary care shall encourage collaborative efforts of the local boards of health, hospital governing boards, and other public and private entities located in rural communities to adopt a long-term community health services assessment and developmental plan.

110.3(3) The center for rural health and primary care shall provide technical assistance to assist rural communities in improving Medicare reimbursements or establishing additional sources of funding through initiatives such as rural health clinics, distinct part skilled nursing facility beds, and the swing-bed program.

110.3(4) The center for rural health and primary care shall coordinate services to provide research for the following:

- a. Examination of the prevalence of rural occupational health injuries in the state.
- b. Assessment of training and continuing education available through local hospitals and others relating to diagnosis and treatment of diseases associated with rural occupational health hazards.
- c. Determination of continuing education support necessary for rural health practitioners to diagnose and treat illnesses caused by exposure to rural occupational health hazards.
- d. Determination of the types of actions that can help prevent agricultural accidents, surveillance and reporting of disabilities suffered by persons engaged in agricultural-related injuries and diseases in the state.
- e. Identifying causal factors associated with agricultural-related injuries and diseases; and indicating the effectiveness of intervention programs designed to reduce injuries and diseases.

~~**110.3(5) Cooperation**~~ The center for rural health and primary care shall cooperate with the center for agricultural health and safety, the center for health effects of environmental contamination and the department of agriculture and land stewardship, to coordinate programs to the extent practicable.

~~**110.3(5)**~~ **110.3(6)** The center for rural health and primary care shall administer grants for farm safety education efforts directed to rural families for the purpose of preventing farm-related injuries to children.

~~**110.3(6)**~~ **110.3(7)** The center for rural health and primary care shall administer a ~~primary care provider recruitment and retention endeavor~~ (the PRIMECARRE).

- a. PRIMECARRE shall include the following:
 - (1) A health care workforce and community support grant program.
 - (2) A primary care provider loan repayment program.
- b. PRIMECARRE shall promote and accommodate local creativity in efforts to recruit and retain health care professionals to provide services in the locality. The focus shall be on developing health care provider recruitment and retention programs.
- c. The center for rural health and primary care may enter into an agreement with the college student aid commission for the administration of the center’s grant and loan repayment program.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

~~110.3(7)~~ The department of public health shall, in cooperation with the primary care collaborative work group, coordinate the initiative for the development of area health education centers, including making application for a federal grant.

641—110.4(135) Advisory committee to the center for rural health and primary care.

110.4(1) The purpose of the advisory committee is to provide advice and make recommendations on rural health issues to the center for rural health and primary care, department of public health.

110.4(2) The advisory committee ~~will~~ may provide the expertise and technical assistance necessary to review and recommend policies pertinent to rural health issues, as well as guidelines for grants and other programs of the center for rural health and primary care.

~~110.4(3)~~ The advisory committee ~~will~~ review reports prepared for the general assembly and make recommendations regarding the reports compiled.

~~110.4(4)~~ **110.4(3)** The advisory committee ~~will~~ may evaluate new care delivery concepts arising to meet the needs of the rural population.

641—110.5(135) Organization. The advisory committee to the center for rural health and primary care shall consist of one representative, approved by the respective agency, of each of the following agencies: the department of agriculture and land stewardship, the Iowa department of public health, the department of inspections and appeals, ~~the a national or regional~~ institute for rural health policy, ~~the social and behavioral research center for rural health,~~ the institute of agricultural medicine and occupational health, and the Iowa state association of counties. The governor shall appoint two representatives of consumer groups active in rural health issues and a representative of each of two farm organizations active within the state, a representative of an agricultural business in the state, a practicing rural family physician, a practicing rural physician assistant, a practicing rural advanced registered nurse practitioner, and a rural health practitioner who is not a physician, physician assistant, or advanced registered nurse practitioner, as members of the advisory committee. The advisory committee shall also include as members two state representatives, one appointed by the speaker of the house of representatives and one by the minority leader of the house, and two state senators, one appointed by the majority leader of the senate and one by the minority leader of the senate.

641—110.6(135) Meetings.

~~110.6(1)~~ ~~Meeting dates~~ Meetings. The advisory committee shall meet at least ~~quarterly~~ semiannually to conduct its business. Meetings can be scheduled as business requires, but notice to committee members must be at least five working days prior to the meeting date. The administrative head of the center for rural health and primary care and the director of the center for agricultural health and safety shall attend these meetings.

~~110.6(2)~~ ~~Meeting procedures.~~ Robert's Rules of Order shall govern at all meetings.

~~110.6(3)~~ **110.6(2)** Quorum. A majority of the total membership shall constitute a quorum. Action can be taken by a vote of the majority of the membership.

~~110.6(4)~~ **110.6(3)** Vacancies. Vacancies will be filled in the same manner as ~~was~~ is prescribed in the Code of Iowa Code. In the case of a vacancy, the chairperson will notify the agency of the need to appoint another representative.

~~110.6(5)~~ **110.6(4)** Term of appointment. Unless otherwise specified by law, term of appointment is for two years with no more than three consecutive terms, excepting the department of public health representative. Exceptions for individual reappointment from organizations represented shall be determined by the director of public health.

~~110.6(6)~~ **110.6(5)** Subcommittees. The advisory committee for the center for rural health and primary care may designate one or more subcommittees to have such powers and perform such duties as may be deemed necessary by the committee.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 2. Amend the heading preceding rule **641—110.11(135)** as follows:

PRIMECARRE COMMUNITY HEALTH CARE WORKFORCE AND COMMUNITY SUPPORT GRANT PROGRAM

ITEM 3. Amend rule 641—110.11(135) as follows:

641—110.11(135) Purpose. The purpose of the PRIMECARRE ~~community health care workforce and community support~~ grant program is to support community efforts which are part of the community's long-term community health services assessment and developmental plan. The application process is based upon the department's strategic plan. A community or region applying for assistance must complete a community health services assessment and adopt a long-term developmental plan. The community may request assistance with the assessment from the ~~center for rural health and primary care~~ department. ~~The long-term developmental~~ community's or region's plan shall include, to the extent possible, a clear commitment to informing high school students of the health care opportunities which may be available to such students. The grant assistance may be in the form of a forgivable loan, grant, or other nonfinancial assistance as deemed appropriate by the center for rural health and primary care. Grants or other assistance provided by the center are intended to promote and accommodate local creativity in efforts to recruit and retain health care professionals to provide services in the locality. Notice of the availability of these public funds shall be published in the Iowa Administrative Bulletin in accordance with 641—Chapter 176.

110.11(1) Eligibility. The following requirements must be met in order to be eligible for the program:

~~a. The applicant must be a single community with a population of 10,000 or less, or a region consisting of communities with populations of 10,000 or less, respectively.~~

~~b. a.~~ The community or region must have illustrated efforts to meet the health care provider needs of the locality and surrounding area.

~~c. b.~~ The community or region must have completed a community health services assessment and adopted a long-term developmental plan as established herein.

~~d. c. A letter of intent must be submitted by January 1 preceding the year for which application for assistance is to be made~~ Participation in a community health services assessment process shall be documented by the community or region.

110.11(2) Funding limitations. Grants awarded under the program shall be ~~subject to the following limitations:~~ awarded to rural, underserved areas or special populations as identified by the department's strategic plan or evidence-based documentation.

~~a. An award of no more than \$10,000 for a single community or region with a population of 10,000 or less.~~

~~b. An award of no more than \$1 per capita for a region in which the population exceeds 10,000.~~

110.11(3) Use of funds. Funds may be used for the following:

a. The procurement of clinical equipment, clinical facilities, and telecommunications facilities.

b. Support for locum tenens arrangements and primary care provider mentor programs.

c. Other capacity-building activities as they relate to recruitment and retention of primary health care providers.

~~110.11(4) Matching requirements funds. Applications submitted shall contain a commitment of at least a dollar for dollar match of~~ may contain a commitment of matching funds for the grant assistance.

110.11(5) Application process. Applicants for grant funds must complete application forms provided by the department. Application materials shall be made available by the department at least 45 days prior to the application due date. Grant applications will be issued in accordance with 641—Chapter 176.

110.11(6) Selection criteria and review process. Selection criteria will be based on illustrated efforts to meet the health care provider needs of the locality and surrounding area. Selection criteria and the process for evaluation of applications shall be described in the application materials provided by the department. A competitive grant application review committee shall be appointed by the administrative head of the center for rural health and primary care. Grants will be awarded according to review criteria developed by the center, in accordance with 641—Chapter 176.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

110.11(7) *Notice of grant award.* The ~~director of public health~~ department shall notify all applicants ~~in writing~~ of the decision of grant awards.

110.11(8) *Appeals.* Applicants with a denied request for funding may appeal the decision of grant awards. The appeal shall be made in writing to the director, Iowa department of public health, within 10 days of the notification date of the grant awards decision. The appeal shall be mailed by certified mail, return receipt requested, or delivered by personal service. The decision of the director of public health becomes the department's final action and shall be sent by certified mail, return receipt requested, or delivered by personal service within 14 days of the receipt of the appeal.

110.11(9) *Grantee oversight.* The department shall monitor the use of funds granted to communities to ensure accountability and conformance with legislative intent. Oversight processes shall be described in the application materials provided by the department.

ITEM 4. Rescind the heading for the PRIMECARRE Primary Care Provider Community Scholarship Program preceding rule **641—110.16(135)**.

ITEM 5. Rescind rule **641—110.16(135)**.

ITEM 6. Renumber rule **641—110.21(135)** as **641—110.16(135)**.

ITEM 7. Amend renumbered subrule 110.16(1) as follows:

110.16(1) *Health care professional eligibility.* The following requirements must be met by health care professionals in order to be eligible for the program:

a. The status of the health care professional's citizenship must meet requirements of the National Health Service Corps loan repayment program.

b. The health care professional must be licensed or certified to practice in the state of Iowa as a primary care health professional as defined in 641—110.2(135) and approved by the state for purposes of program priorities and requirements. Physicians must have completed a primary care residency and be board-eligible or board-certified.

c. The health care provider must possess evidence of a contractual agreement to practice full-time at a site in a designated shortage area within the state and approved by the state for the minimum number of years required by federal programs providing support for the program.

d. The health care provider shall provide one year of obligated service in exchange for each year of loan repayment, unless federal requirements otherwise require.

~~*e.*~~ *e.* The health care provider must agree to comply with all contract provisions and the rules and regulations as promulgated by the department.

~~*f.*~~ *f.* The health care provider must possess a license that is not restricted by a medical regulatory authority of any jurisdiction of the United States, other nations, or territories.

~~*g.*~~ *g.* The health care professional must be eligible under Section 338B of the Public Health Service Act as amended November 16, 1990, by Public Law 101-597.

~~*h.*~~ *h.* The health care provider must agree to provide full-time primary health care services at a clinical site in a designated health professional shortage area.

~~*i.*~~ *i.* The health care provider must agree not to discriminate on the basis of the ability of the individual to pay for such care or on the basis that payment for such care will be made pursuant to the program established in Title XVIII (Medicare) of the Social Security Act, or pursuant to the program established in Title XIX (Medicaid) of such Act.

~~*j.*~~ *j.* The health care provider must agree to accept assignment under Section 1842(b)(3)(B)(ii) of the Social Security Act for all services for which payment may be made under Part B of Title XVIII and to enter into an appropriate agreement with the state agency that administers the state plan for medical assistance under Title XIX of such Act to provide service to individuals entitled to medical assistance under the plan.

~~*k.*~~ *k.* The health care provider must complete an application form provided by the Iowa department of public health.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 8. Amend renumbered subrule 110.16(7) as follows:

110.16(7) *Contract oversight and administration.* The department of public health shall establish and enforce the terms of the contract, including implementation of any methods, e.g., legal action, that may be necessary to recoup loan repayment funds in the event of failure on the part of a program recipient to fulfill the terms and conditions of the contract. The department shall take into consideration mitigating circumstances which may prohibit a recipient from fulfilling the recipient's contractual obligation or for whom fulfilling the obligation would cause undue hardship. The department of public health shall also provide for cancellation of contracts for reasonable cause to be determined by the department, unless federal requirements otherwise require.

ITEM 9. Amend **641—Chapter 110**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~section~~ sections 135.107 and 135B.33.

[Filed 9/13/18, effective 11/14/18]

[Published 10/10/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/10/18.

ARC 4077C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rule making related to Iowa law enforcement emergency care providers

The Public Health Department hereby rescinds Chapter 139, "Iowa Law Enforcement Emergency Care Provider," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 147A.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 147A.

Purpose and Summary

The emergency care provider certification process for Iowa peace officers is managed within the Iowa Law Enforcement Academy based on guidance provided by the Iowa Department of Public Health. The Iowa Law Enforcement Academy is in the process of amending 501—Chapters 1, 3, 4, 9 and 10 to reflect the current process for the Department's involvement. Chapter 139 is no longer relevant in the certification process and is rescinded herein. The level of training required of an Iowa peace officer to obtain an emergency care provider certification has not changed.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 6, 2018, as **ARC 3816C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the State Board of Health on September 12, 2018.

Fiscal Impact

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

PUBLIC HEALTH DEPARTMENT[641](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 the Department's variance and 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 14, 2018.

The following rule-making action is adopted:

Rescind and reserve **641—Chapter 139**.

[Filed 9/13/18, effective 11/14/18]

[Published 10/10/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/10/18.

ARC 4078C

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 sections 17A.3(1)"b," 124E.11(2) and 136.3(9).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 124E.

Purpose and Summary

These amendments revise the laboratory testing procedures for medical cannabidiol products to require that the majority of the testing be conducted at the process lot stage, as opposed to the product lot stage. Testing for product potency and microbial contaminants will still be required at the product lot stage. This change will assist in controlling laboratory testing costs for the regulated community and still meet the goal of ensuring that products are free of contaminants. In addition, the amendments also clarify that the detected concentration of cannabinoids may not vary from the labeled concentration

PUBLIC HEALTH DEPARTMENT[641](cont'd)

by more than 15 percent. The amendments also clarify that discrepancies discovered during inventory reconciliation processes need to be reported to law enforcement only when it is suspected that product or plant material diversion has occurred. This change will ensure that law enforcement resources are utilized most efficiently, that is, only when the reconciliation process reveals possible diversion. Finally, the amendments require that an action plan be initiated when a reconciliation process differs from the inventory recorded in the state's seed-to-sale tracking system.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 18, 2018, as **ARC 3899C**. The Department received three comments on the proposed amendments. The following changes were incorporated in response to the comments. The changes clarify guidance to manufacturers on sampling and laboratory testing procedures.

1. In Item 1, subrule 154.26(2) is amended to add a new paragraph "f."
2. In subparagraph 154.26(3)"b"(2) in Item 1, minor edits have been made to remove the words "and microbiological toxins" from both sentences of the subparagraph.
3. In Item 1, subparagraph 154.26(4)"a"(1) is amended to add the words "and departmental guidance pursuant to subrule 154.69(1)" after the word "criteria."
4. Item 6 contains a new adopted rule that will be the first rule under the heading "Laboratory Testing."
5. Item 7 amends rule 641—154.71(124E) to add new subrules 154.71(3) and 154.71(4).
6. The original Item 6 in the Notice has been renumbered as Item 8.

Adoption of Rule Making

This rule making was adopted by the State Board of Health on September 12, 2018.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the Department's variance and 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 14, 2018.

The following rule-making actions are adopted:

PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 1. Amend subrules 154.26(2) to 154.26(4) as follows:

154.26(2) Sampling protocols. A manufacturer shall develop and follow written procedures for sampling medical cannabidiol that require the manufacturer to:

- a. Conduct sample collection in a manner that provides analytically sound and representative samples;
- b. Document every sampling event and provide this documentation to the department upon request;
- c. Describe all sampling and testing plans in written procedures that include the sampling method and the number of units per lot to be tested;
- d. Ensure that random samples from each lot are:
 - (1) Taken in an amount necessary to conduct the applicable test;
 - (2) Labeled with the lot number; and
 - (3) Submitted for testing; ~~and~~
- e. Retain the results from the random samples for at least five years; ~~and~~
- f. Notify the department at least two business days prior to sample collection and allow the department or its designees to be present to observe the sampling procedures when the samples are to be sent to a laboratory for testing.

154.26(3) Sampling and testing. A manufacturer shall:

- a. Work with the department and laboratory personnel to develop acceptance criteria for all potential contaminants based on the levels of metals, microbes, or other contaminants that the manufacturer uses in cultivating and producing medical cannabidiol;
- b. Conduct sampling and testing of all medical cannabidiol lots using acceptance criteria that are protective of patient health. ~~At a minimum, testing of lots shall occur after packaging but before transport or sale to a dispensary.~~ The sampling and testing results shall be approved by the department and laboratory personnel and shall ensure that lots of medical cannabidiol meet allowable health risk limits for contaminants; Testing of lots shall occur as follows:
 - (1) At a minimum, testing of lots for cannabinoid potency and all microbiological impurities except microbiological toxins shall occur after packaging but before transport or sale to a dispensary;
 - (2) At a minimum, testing of lots for residual solvents and processing chemicals, pesticides, and metals shall occur at the process lot stage. A packaged product that contains medical cannabidiol solely from process lots that passed laboratory testing for residual solvents and processing chemicals, pesticides, and metals does not need to be retested for these analytes provided that solvents and processing chemicals are not used during the processing into the packaged product;
 - (3) Testing of lots for residual solvents and processing chemicals shall also occur after packaging but before transport or sale to a dispensary if solvents or processing chemicals are used in the production process after the testing of the process lot has occurred;
- c. Refrain from packaging or selling medical cannabidiol from a process lot that fails to meet established standards, specifications, and any other relevant quality control criteria. Medical cannabidiol from a process lot that fails quality assurance testing may be remixed and retested;
- d. Reject and destroy medical cannabidiol from a lot that fails to meet established standards, specifications, and any other relevant quality control criteria ~~except for potency of CBD and THC. Medical cannabidiol from a lot that fails quality assurance testing based on potency of CBD or THC may be remixed and retested when remixing and retesting are not warranted;~~
- e. Develop and follow a written procedure for responding to results failing to meet established standards, specifications, and any other relevant quality control criteria, including:
 - (1) Criteria for when remixing and retesting are warranted;
 - (2) Instructions for destroying contaminated or substandard medical cannabidiol as provided in subrule 154.23(2) when remixing and retesting are not warranted; and
 - (3) Instructions for determining the source of contamination;
- f. Retain documentation of test results, assessment, and destruction of medical cannabidiol for at least five years.

154.26(4) Stability testing.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

a. The quality assurance program shall include procedures for performing stability testing of each product type produced to determine product expiration dates. The procedures shall describe:

(1) Sample size and test intervals based on statistical criteria and departmental guidance pursuant to subrule 154.69(1) for each attribute examined to ensure valid stability estimates;

(2) Storage conditions for samples retained for testing; and

(3) Reliable and specific test methods.

b. Stability studies shall include:

(1) Medical cannabidiol testing at appropriate intervals; and

(2) Medical cannabidiol testing in the same container-closure system in which the medical cannabidiol is marketed and dispensed.

c. If product-expiration-date studies have not been completed before December 1, 2018, a manufacturer shall assign a tentative product expiration date, not to exceed one year, based on any available stability information. A manufacturer shall concurrently conduct stability studies to determine the actual product expiration date.

d. After a manufacturer verifies the tentative product expiration date, or determines the appropriate product expiration date, a manufacturer shall include that product expiration date on each lot of medical cannabidiol.

e. Stability testing shall be repeated if the manufacturing process or the product's chemical composition is changed.

ITEM 2. Amend subrule 154.27(5) as follows:

154.27(5) Reconciliation. No less often than every two calendar weeks, a manufacturer shall reconcile its physical inventory with the inventory recorded in the department's secure sales and inventory tracking system. Inconsistencies shall be reported to the department and law enforcement within 72 hours of discovery. Reconciliation shall include:

a. Plant material at the manufacturing facility and in transit; and Reconciliation shall include:

(1) Plant material at the manufacturing facility and in transit; and

(2) Medical cannabidiol at the manufacturing facility, at distribution and storage facilities, and in transit.

b. Medical cannabidiol at the manufacturing facility, at distribution and storage facilities, and in transit. Discrepancies between the physical inventory of the manufacturer and the inventory recorded in the department's secure sales and inventory system shall be handled as follows:

(1) A manufacturer shall report suspected diversion of plant material or medical cannabidiol to the department and law enforcement within 72 hours of discovery.

(2) A manufacturer shall have up to 72 hours to reconcile discrepancies in the manufacturer's physical inventory with the inventory recorded in the secure sales and inventory tracking system. If the manufacturer cannot reconcile the manufacturer's physical inventory with the secure sales and inventory tracking system's inventory within 72 hours but diversion of plant material or medical cannabidiol is not suspected, the manufacturer shall immediately contact the department to report the discrepancy and to initiate a compliance action plan pursuant to paragraph 154.28(4) "b."

ITEM 3. Amend subrule 154.28(4) as follows:

154.28(4) Compliance required. A manufacturer shall pay for and cooperate in a timely manner with the department's requirement that it undergo an independent health and sanitary inspection in accordance with this rule. respond to deficiencies found during inspections or inventory reconciliation as follows:

a. Deficiencies not related to inventory reconciliation.

(1) Upon written notification by the department of deficiencies that do not involve reconciliation of inventory, a manufacturer shall have up to 30 days to submit an action plan to the department with proposed remedies and timelines for completion of the remedies.

(2) The department shall have up to two weeks to accept or require revision of the action plan.

b. Deficiencies related to inventory reconciliation.

(1) Upon notifying the department that the manufacturer cannot reconcile the manufacturer's physical inventory with the inventory recorded in the department's secure sales and inventory tracking

PUBLIC HEALTH DEPARTMENT[641](cont'd)

system, the manufacturer shall have up to two business days to submit an action plan to the department with proposed remedies and timelines for completion of the remedies.

(2) The department shall have up to two business days to accept or require revision of the action plan.

c. Failure to complete actions in the action plan within the timelines mutually agreed upon by the manufacturer and the department shall result in assessment of penalties or in suspension or revocation of a manufacturer license as authorized by these rules.

d. At the department's request and in a timely manner, a manufacturer shall pay for and undergo an independent health and sanitary inspection in accordance with this rule.

ITEM 4. Amend subrule 154.51(3) as follows:

154.51(3) *Reconciliation.* At least once a calendar week, a dispensary shall reconcile all medical cannabidiol at the dispensary with the inventory recorded in the department's secure sales and inventory tracking system. Inconsistencies Discrepancies shall be reported to the department and law enforcement within 24 hours of discovery. handled as follows:

a. A dispensary shall report suspected diversion of medical cannabidiol to the department and law enforcement within 24 hours of discovery.

b. A dispensary shall have up to 24 hours to reconcile the dispensary's physical inventory with the inventory recorded in the secure sales and inventory tracking system. If the dispensary cannot reconcile the dispensary's physical inventory with the secure sales and inventory tracking system's inventory within 24 hours but diversion of product is not suspected, the dispensary shall immediately contact the department to report the discrepancy and to initiate a compliance action plan pursuant to paragraph 154.52(4) "b."

ITEM 5. Amend subrule 154.52(4) as follows:

154.52(4) *Compliance required.* A dispensary shall pay for and cooperate in a timely manner with the department's requirement that the dispensary undergo an independent health and sanitary inspection in accordance with this rule. respond to deficiencies found during inspections or inventory reconciliation as follows:

a. Deficiencies not related to inventory reconciliation.

(1) Upon written notification by the department of deficiencies that do not involve reconciliation of inventory, a dispensary shall have up to 30 days to submit an action plan to the department with proposed remedies and timelines for completion of the remedies.

(2) The department shall have up to two weeks to accept or require revision of the action plan.

b. Deficiencies related to inventory reconciliation.

(1) Upon notifying the department that the dispensary cannot reconcile the dispensary's physical inventory with the inventory recorded in the department's secure sales and inventory tracking system, the dispensary shall have up to two business days to submit an action plan to the department with proposed remedies and timelines for completion of the remedies.

(2) The department shall have up to two business days to accept or require revision of the action plan.

c. Failure to complete actions in the action plan within the timelines mutually agreed upon by the dispensary and the department shall result in assessment of penalties or in suspension or revocation of a dispensary license as authorized by these rules.

d. At the department's request and in a timely manner, a dispensary shall pay for and undergo an independent health and sanitary inspection in accordance with this rule.

ITEM 6. Adopt the following **new** rule 641—154.69(124E):

641—154.69(124E) Requirements of the department.

154.69(1) *Laboratory testing requirements and acceptance criteria.* The department shall work with manufacturers and laboratories to create and maintain a document describing required sampling methodology, acceptance criteria, stability-testing procedures, and other guidance for manufacturers and laboratories on testing procedures. The document shall:

PUBLIC HEALTH DEPARTMENT[641](cont'd)

- a. Describe the minimum number of sample units and reserve samples required for testing by the laboratory;
- b. Describe an option for manufacturers to reduce the amount of testing conducted by allowing compositing of sample units or other techniques that reduce the number of tests required without compromising the safety of the products once a manufacturer has satisfactorily completed a control study for a specific extraction or production process;
- c. Describe the minimum requirements for sample size and testing intervals for stability testing;
- d. Be available on the department's website (www.idph.iowa.gov).

154.69(2) *Review and approval of manufacturer sampling protocols.* The department shall have up to two weeks to review and approve or request revisions to a manufacturer's sampling protocols required pursuant to subrules 154.26(2) and 154.26(3).

154.69(3) *Review and approval of manufacturer stability-testing procedures.* The department shall have up to two weeks to review and approve or request revisions to a manufacturer's stability-testing procedures required pursuant to subrule 154.26(4).

ITEM 7. Amend rule 641—154.71(124E) as follows:

641—154.71(124E) Requirements of a manufacturer.

154.71(1) *Assuming costs.* A manufacturer shall assume the costs for all laboratory testing requested by the department or laboratory for medical cannabis goods produced by the manufacturer.

154.71(2) *Sample waste retrieval.* A manufacturer shall retrieve analyzed samples and waste containing medical cannabis goods from the laboratory at a duration and frequency approved by the department.

154.71(3) *Obtaining approval for sampling protocols.* A manufacturer shall obtain approval from the department for the manufacturer's sampling protocols pursuant to subrule 154.26(2) prior to submitting samples for laboratory testing related to content and contamination.

154.71(4) *Obtaining approval for stability-testing procedures.* A manufacturer shall obtain approval from the department for the manufacturer's stability-testing procedures pursuant to subrule 154.26(4) prior to submitting samples for laboratory testing related to stability testing and product-expiration-date studies.

ITEM 8. Amend subrule 154.72(1) as follows:

154.72(1) *Cannabinoids.*

a. For each unique lot of medical cannabidiol, and if asked to do so by a requester for other medical cannabis goods, a laboratory shall, at minimum, test for and report measurements for the following cannabinoid analytes:

- (1) THC;
- (2) THCA;
- (3) CBD;
- (4) CBDA;
- (5) CBG; and
- (6) CBN.

b. A laboratory shall report that the primary sample passed THC potency testing if the detected concentration of THC does not exceed 3 percent by weight in milligrams per milliliter (mg/ml) for liquids and milligrams per gram (mg/g) for solids and if the detected concentration of THC does not vary from the manufacturer's labeled concentration by more ~~or~~ less than 15 percent by weight in mg/ml for liquids and mg/g for solids. Thus, a solid product labeled as containing a concentration of THC of 10 mg/g shall have a detected concentration of THC that is no more than 11.50 mg/g and no less than 8.50 mg/g.

c. A laboratory shall report that the primary sample failed THC potency testing if the detected concentration of THC exceeds 3 percent by weight in mg/ml for liquids and mg/g for solids or if the detected concentration of THC varies from the labeled concentration of THC by more ~~or~~ less than 15 percent by weight in mg/ml for liquids and mg/g for solids.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

d. A laboratory shall report that the primary sample passed CBD potency testing if the detected concentration of CBD does not vary from the manufacturer's labeled concentration by more ~~or less~~ than 15 percent by weight in mg/ml for liquids and mg/g for solids. Thus, a solid product labeled as containing a concentration of CBD of 10 mg/g shall have a detected concentration of CBD that is no more than 11.50 mg/g and no less than 8.50 mg/g.

e. A laboratory shall report that the primary sample failed potency testing if the detected concentration of CBD varies from the labeled concentration of CBD by more ~~or less~~ than 15 percent by weight in mg/ml for liquids and mg/g for solids.

f. For each cannabinoid analyte test, a laboratory shall issue a certificate of analysis that contains the following:

(1) Concentrations of cannabinoid analytes in mg/ml for liquids and mg/g for solids, or other measures approved by the department.

(2) Whether the primary sample passed or failed the test in accordance with paragraphs 154.72(1) "b" and 154.72(1) "c."

g. The laboratory may test for and provide test results for additional cannabinoid analytes if asked to do so by a requester.

[Filed 9/13/18, effective 11/14/18]

[Published 10/10/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/10/18.

ARC 4079C

REGENTS BOARD[681]

Adopted and Filed

Rule making related to regent admission index

The Board of Regents hereby amends Chapter 1, "Admission Rules Common to the Three State Universities," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 262.9(3).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 262.9(3).

Purpose and Summary

Currently, two formulas are utilized to calculate the Regent Admission Index (RAI). The RAI is used to determine whether a graduate of an Iowa high school will be automatically admitted to a Regent institution of higher education. The primary formula uses ACT score, high school class rank, GPA, and number of courses completed in core subject areas. The alternative formula uses ACT score, GPA, and number of courses completed in core subject areas. A growing number of high schools no longer assign a class rank. The Regents' Inter-Institutional Admissions Study Team reviewed the two formulas for calculating the RAI and recommended that beginning with students applying for admission for the Summer 2020 term, the alternative formula (ACT, GPA, and core courses) be the only formula used to calculate the RAI. This amendment eliminates the use of the primary formula effective with admissions for the Summer 2020 term.

REGENTS BOARD[681](cont'd)

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 4, 2018, as **ARC 3867C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on September 13, 2018.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to rule 681—19.18(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 14, 2018.

The following rule-making action is adopted:

Amend subrule 1.1(2) as follows:

1.1(2) Admission criteria.

~~a. Effective for students who seek admission prior to fall 2009. Graduates of approved Iowa high schools who have the subject matter background required by each university and who rank in the upper one-half of their graduating class will be admitted to any regent university. Applicants who are not in the upper one-half of their graduating class may, after an individual review of their academic and test records, and at the discretion of the admissions officers:~~

- ~~(1) Be admitted unconditionally,~~
- ~~(2) Be admitted conditionally,~~
- ~~(3) Be required to enroll for a tryout period during a preceding summer session, or~~
- ~~(4) Be denied admission.~~

~~b. a. Effective for students who seek admission in fall 2009 and thereafter.~~ Effective for students who seek admission in fall 2009 and thereafter through spring 2020.

(1) Decisions on admission to a regent university are based on the following four factors: performance on standardized tests (SAT Reasoning Test or ACT); high school grade point average (GPA); high school percentile rank in class (when available); and number of high school courses completed in the core subject areas. A primary regent admission index (RAI) will be calculated for each freshman applicant using the formula below when the high school has provided a class rank. For purposes of calculating the primary RAI, the ACT composite score has a top value of 36 (SAT scores

REGENTS BOARD[681](cont'd)

will be converted to ACT composite equivalents), high school rank is expressed as a percentile with 99 percent as the top value, high school GPA is expressed on a four-point scale, and number of high school courses completed in the core subject areas is expressed in terms of years or fractions of years of study.

$$\text{RAI} = \frac{(2 \times \text{ACT composite score})}{\text{rank expressed as a percentile}} + \frac{(1 \times \text{high school rank expressed as a percentile})}{\text{grade point average}} + \frac{(20 \times \text{high school grade point average})}{\text{number of high school courses completed in the core subject areas}}$$

NOTE: For purposes of calculating the primary regent admission index, the ACT composite score has a top value of 36 (SAT scores will be converted to ACT composite equivalents); high school rank is expressed as a percentile with 99 percent as the top value; high school GPA is expressed in a four-point scale; and number of high school courses completed in the core subject areas is expressed in terms of years or fractions of years of study.

(2) ~~Graduates of approved Iowa high schools who have the subject matter background required by each university and who meet the regent admission index of 245 required for automatic admission will be admitted to any regent university. Applicants who do not meet the regent admission index of 245 for automatic admission or for whom a regent admission index cannot be calculated may, after an individual review of their academic and test records, and at the discretion of the admissions officers:~~

1. ~~Be admitted unconditionally;~~
2. ~~Be admitted conditionally;~~
3. ~~Be required to enroll for a tryout period during a preceding summer session, or~~
4. ~~Be denied admission.~~

~~The regent universities recognize that the traditional measures of academic performance do not adequately describe some students' potential for success. Therefore, the regent universities strongly encourage all interested students to apply for admission. Applicants who feel their academic record is not an accurate reflection of their potential for success are encouraged to provide supplemental information explaining their circumstances, in addition to the application, academic transcripts, and test scores.~~

NOTE: For purposes of calculating the alternative regent admission index, the ACT composite score has a top value of 36 (SAT scores will be converted to ACT composite equivalents); high school GPA is expressed on a four-point scale; and number of high school courses completed in the core subject areas is expressed in terms of years or fractions of years of study.

(2) An alternative RAI will be calculated for each freshman applicant using the equation identified in paragraph 1.1(2) "b" when the high school has not provided a class rank.

b. Effective for students who seek admission in summer 2020 and thereafter. An alternative regent admission index (RAI) RAI will be calculated for each freshman applicant using the equation below when the high school has not provided a class rank. For purposes of calculating the RAI, the ACT composite score has a top value of 36 (SAT scores will be converted to ACT composite equivalents), high school GPA is expressed on a four-point scale, and number of high school courses completed in the core subject areas is expressed in terms of years or fractions of years of study.

$$\text{RAI} = \frac{(3 \times \text{ACT composite score})}{\text{grade point average}} + \frac{(30 \times \text{high school grade point average})}{\text{number of high school courses completed in the core subject areas}}$$

c. Freshman applicants from Iowa high schools who have an RAI of at least 245 and who meet the minimum number of high school courses required by requirements of the regent universities will qualify for automatic admission to any of the three regent universities. Freshman applicants who have an RAI below 245 may also be admitted to a specific regent university; however, each regent university

REGENTS BOARD[681](cont'd)

will review these applications on an individual basis, and admission decisions will be specific to each institution.

[Filed 9/17/18, effective 11/14/18]

[Published 10/10/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/10/18.