



IOWA ADMINISTRATIVE BULLETIN

Published Biweekly

VOLUME XLIV
November 3, 2021

NUMBER 9
Pages 1237 to 1356

CONTENTS IN THIS ISSUE

Pages 1247 to 1354 include **ARC 6006C** to **ARC 6031C**

AGENDA

Administrative rules review committee 1241

ALL AGENCIES

Agency identification numbers 1245
Citation of administrative rules. 1239
Schedule for rule making. 1240

DELAYS

Session delay, Revenue Department[701]
Marketable food products for human
consumption, 230.2(1) 1355

HUMAN SERVICES DEPARTMENT[441]

Notice, Mental health and disability
services region incentive
fund—application, approval, reporting,
25.11, 25.22 **ARC 6009C** 1247
Filed Emergency, Mental health and
disability services region incentive
fund—application, approval, reporting,
25.11, 25.22 **ARC 6008C** 1290
Filed, Medical assistance—eligibility,
payment, 75.5(3)“d,” 75.16(1), 75.25,
80.3(2)“a” **ARC 6022C** 1293
Filed, Child care homes; child
development homes; child care
centers, amendments to chs 109, 110,
120 **ARC 6023C** 1294

INSPECTIONS AND APPEALS DEPARTMENT[481]

Filed, Frequency of game nights, 100.2
ARC 6018C 1303

INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]“umbrella”

Notice, Review of rules, amendments to
chs 15, 16, 25, 28, 30, 33, 70 **ARC 6015C** 1248
Notice, Licensing of public adjusters,
55.5, 55.8, 55.9(7)“g,” 55.12(1), 55.14
to 55.18 **ARC 6010C** 1257
Filed, Surplus lines insurers—renewal,
submission of financial statements, late
fee, 21.5 **ARC 6006C** 1305

LIBRARIES AND INFORMATION SERVICES DIVISION[286]

EDUCATION DEPARTMENT[281]“umbrella”

Filed, Waivers, amendments to ch 10
ARC 6024C 1307

NATURAL RESOURCE COMMISSION[571]

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

Notice, Class I dock permits—issuance,
duration, 16.4(3), 16.17(1) **ARC 6028C** 1262

PHARMACY BOARD[657]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Notice, Collaborative pharmacy practice,
39.13 **ARC 6012C** 1264

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Notice, Chiropractic
physicians—preceptor approval
process, 42.5(1) **ARC 6011C** 1266
Notice, Athletic trainers—continuing
education, 352.1, 352.3(2) **ARC 6027C** 1268

PUBLIC HEARINGS

Summarized list 1243

REAL ESTATE APPRAISER EXAMINING**BOARD[193F]**Professional Licensing and Regulation Bureau[193]
COMMERCE DEPARTMENT[181]"umbrella"

Notice, Review of rules, amendments to chs 1, 4 to 6, 8 to 12 ARC 6017C	1270
Filed, Real property appraisers; background checks; reciprocity, 5.7, 6.7, 6.8, 10.2 ARC 6007C	1312
REVENUE DEPARTMENT[701]	
Filed, Appeals of director's rejection of assessor appointment or reappointment, 7.37 ARC 6026C	1315
Filed, Nonresident and part-year resident income tax credit, 42.5 ARC 6031C	1317
Filed, Out-of-state tax credit, 42.6, 89.8(11) ARC 6029C	1321
Filed, Order of deduction of tax credits, 42.44, 52.12, 58.24 ARC 6030C	1331
Filed, Assessors and deputy assessors—assessment of own property, 71.27 ARC 6025C	1335
Session delay, Marketable food products for human consumption, 230.2(1).....	1355

SCHOOL BUDGET REVIEW COMMITTEE[289]

EDUCATION DEPARTMENT[281]"umbrella"

Filed, Waivers, amendments to ch 8 ARC 6019C	1338
--	------

TRANSPORTATION DEPARTMENT[761]

Notice, Warning lights on vehicles or equipment not owned and operated by the department when used in road work zones, ch 135 ARC 6014C	1283
Filed, Outdoor advertising devices; private directional signing, amend ch 117; rescind ch 120 ARC 6020C	1339

UTILITIES DIVISION[199]

COMMERCE DEPARTMENT[181]"umbrella"

Notice, Federally registered planning authority transmission projects, 11.14 ARC 6016C	1285
Notice, Regulation of electric cooperatives, 27.1(2)"o" ARC 6013C	1288
Filed, Electric utility service, amendments to ch 20 ARC 6021C	1343

PREFACE

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

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

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

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

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

Telephone: (515)281-6048
Telephone: (515)281-3355

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

CITATION of Administrative Rules

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

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

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

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

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

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

Schedule for Rule Making 2021

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

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
11	Wednesday, November 10, 2021	December 1, 2021
12	Friday, November 26, 2021	December 15, 2021
13	Wednesday, December 8, 2021	December 29, 2021

PLEASE NOTE:

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

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

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

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

The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, November 9, 2021, at 9 a.m. in Room 103, State Capitol, Des Moines, Iowa. Instructions for participation by videoconference can be found here: www.legis.iowa.gov/committees/meetings/meetingsListComm?groupID=705. For more information, contact Jack Ewing at Jack.Ewing@legis.iowa.gov. The following rules will be reviewed:

NOTE: See also Agenda published in the October 20, 2021, Iowa Administrative Bulletin.

HUMAN SERVICES DEPARTMENT[441]

Mental health and disability services region incentive fund—application, approval, reporting,
25.11, 25.22 Notice **ARC 6009C**, also Filed Emergency **ARC 6008C** 11/3/21
Medical assistance—eligibility, payment, 75.5(3)“d,” 75.16(1), 75.25, 80.3(2)“a” Filed **ARC 6022C** 11/3/21
Child care homes; child development homes; child care centers, amendments to chs 109,
110, 120 Filed **ARC 6023C** 11/3/21

INSPECTIONS AND APPEALS DEPARTMENT[481]

Frequency of game nights, 100.2 Filed **ARC 6018C** 11/3/21

INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]“umbrella”
Review of rules, amendments to chs 15, 16, 25, 28, 30, 33, 70 Notice **ARC 6015C** 11/3/21
Surplus lines insurers—renewal, submission of financial statements, late fee, 21.5 Filed **ARC 6006C** 11/3/21
Licensing of public adjusters, 55.5, 55.8, 55.9(7)“g,” 55.12(1), 55.14 to 55.18 Notice **ARC 6010C** 11/3/21

LIBRARIES AND INFORMATION SERVICES DIVISION[286]

EDUCATION DEPARTMENT[281]“umbrella”
Waivers, amendments to ch 10 Filed **ARC 6024C** 11/3/21

NATURAL RESOURCE COMMISSION[571]

NATURAL RESOURCES DEPARTMENT[561]“umbrella”
Class I dock permits—issuance, duration, 16.4(3), 16.17(1) Notice **ARC 6028C** 11/3/21

PHARMACY BOARD[657]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”
Collaborative pharmacy practice, 39.13 Notice **ARC 6012C** 11/3/21

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”
Chiropractic physicians—preceptor approval process, 42.5(1) Notice **ARC 6011C** 11/3/21
Athletic trainers—continuing education, 352.1, 352.3(2) Notice **ARC 6027C** 11/3/21

REAL ESTATE APPRAISER EXAMINING BOARD[193F]

Professional Licensing and Regulation Bureau[193]
COMMERCE DEPARTMENT[181]“umbrella”
Review of rules, amendments to chs 1, 4 to 6, 8 to 12 Notice **ARC 6017C** 11/3/21
Real property appraisers; background checks; reciprocity, 5.7, 6.7, 6.8, 10.2 Filed **ARC 6007C** 11/3/21

REVENUE DEPARTMENT[701]

Appeals of director’s rejection of assessor appointment or reappointment, 7.37 Filed **ARC 6026C** 11/3/21
Nonresident and part-year resident income tax credit, 42.5 Filed **ARC 6031C** 11/3/21
Out-of-state tax credit, 42.6, 89.8(11) Filed **ARC 6029C** 11/3/21
Order of deduction of tax credits, 42.44, 52.12, 58.24 Filed **ARC 6030C** 11/3/21
Assessors and deputy assessors—assessment of own property, 71.27 Filed **ARC 6025C** 11/3/21

SCHOOL BUDGET REVIEW COMMITTEE[289]

EDUCATION DEPARTMENT[281]“umbrella”
Waivers, amendments to ch 8 Filed **ARC 6019C** 11/3/21

TRANSPORTATION DEPARTMENT[761]

Outdoor advertising devices; private directional signing, amend ch 117; rescind ch 120
Filed **ARC 6020C** 11/3/21
Warning lights on vehicles or equipment not owned and operated by the department when
used in road work zones, ch 135 Notice **ARC 6014C** 11/3/21

UTILITIES DIVISION[199]

COMMERCE DEPARTMENT[181]"umbrella"

Federally registered planning authority transmission projects, 11.14 Notice **ARC 6016C** 11/3/21
 Electric utility service, amendments to ch 20 Filed **ARC 6021C** 11/3/21
 Regulation of electric cooperatives, 27.1(2)"o" Notice **ARC 6013C** 11/3/21

ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

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

Senator Waylon Brown
 2415 Highway 218
 Osage, Iowa 50461

Senator Jesse Green
 2344 360th Street
 Harcourt, Iowa 50544

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

Senator Pam Jochum
 2368 Jackson Street
 Dubuque, Iowa 52001

Senator Zach Whiting
 P.O. Box 385
 Spirit Lake, Iowa 51360

Jack Ewing
Administrative Code Editor
 Capitol
 Des Moines, Iowa 50319
 Telephone: (515)281-6048
 Fax: (515)281-8451
 Email: Jack.Ewing@legis.iowa.gov

Representative Jon Jacobsen
 1113 Arbor Ridge Drive
 Council Bluffs, Iowa 51503

Representative Megan Jones
 4470 Highway 71
 Sioux Rapids, Iowa 50585

Representative Amy Nielsen
 North Liberty, Iowa

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

Representative Mike Sexton
 2202 Ogden Avenue
 Rockwell City, Iowa 50579

Michael Boal
Administrative Rules Coordinator
 Governor's Ex Officio Representative
 Capitol, Room 18
 Des Moines, Iowa 50319
 Telephone: (515)281-5211

ACCOUNTANCY EXAMINING BOARD[193A]

Waivers; five-year review of rules, 2.7, 3.2, 3.14(2), 4.7(4), 4.8, 4.10, 6.2(2), 9.5(2), 10.5(6), 18.2(2) IAB 10/20/21 ARC 5989C	Professional Licensing Bureau Offices 200 E. Grand Ave., Suite 350 Des Moines, Iowa	November 10, 2021 2 to 3 p.m.
--	---	----------------------------------

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Out-of-state travel—electronic authorization, 41.4, 41.5, 41.7(8), 64.10(2)“c” IAB 10/20/21 ARC 5981C	Procurement Conference Room, A Level Hoover State Office Bldg. Des Moines, Iowa Via conference call: 1.866.685.1580 Conference code: 0009991200	November 10, 2021 11 a.m. to 12 noon
Blood, bone marrow, living organ donation incentive program—leave, staffing, 63.20 IAB 10/20/21 ARC 5980C	Procurement Conference Room, A Level Hoover State Office Bldg. Des Moines, Iowa Via conference call: 1.866.685.1580 Conference code: 0009991200	November 9, 2021 10 to 11 a.m.
Continuing health insurance coverage—surviving spouses and children of eligible employees, 64.15 IAB 10/20/21 ARC 5982C	Procurement Conference Room, A Level Hoover State Office Bldg. Des Moines, Iowa Via conference call: 1.866.685.1580 Conference code: 0009991200	November 9, 2021 1 to 2 p.m.

HUMAN RIGHTS DEPARTMENT[421]

Agency reorganization, adopt chs 1, 20 to 25, 30, 31, 40, 41; amend chs 2 to 7 IAB 10/20/21 ARC 6004C	Via video/conference call Contact Sonya Streit Email: sonya.streit@iowa.gov	November 9, 2021 3 to 4 p.m.
---	--	---------------------------------

INSURANCE DIVISION[191]

Review of rules, amendments to chs 15, 16, 25, 28, 30, 33, 70 IAB 11/3/21 ARC 6015C	Via conference call Contact Tracy Swalwell Email: tracy.swalwell@iid.iowa.gov	November 30, 2021 10 a.m. (If requested)
Review of rules, amendments to chs 29, 35, 36, 71, 73 to 76, 79 to 81, 85 IAB 10/20/21 ARC 6002C	Via conference call Contact Tracy Swalwell Email: tracy.swalwell@iid.iowa.gov	November 15, 2021 9 a.m. (If requested)
Licensing of public adjusters, 55.5, 55.8, 55.9(7)“g,” 55.12(1), 55.14 to 55.18 IAB 11/3/21 ARC 6010C	Via conference call Contact Tracy Swalwell Email: tracy.swalwell@iid.iowa.gov	December 1, 2021 10 a.m.

LABOR SERVICES DIVISION[875]

Boiler and pressure vessel codes—adoption by reference, 90.6(1), 91.1 IAB 10/20/21 ARC 5979C	150 Des Moines St. Des Moines, Iowa	November 15, 2021 10:30 a.m. (If requested)
--	--	---

NATURAL RESOURCE COMMISSION[571]

Class I dock permits—issuance, duration, 16.4(3), 16.17(1) IAB 11/3/21 ARC 6028C	Via video/conference call Contact Ben Bergman Email: ben.bergman@dnr.iowa.gov	November 30, 2021 10 a.m.
---	---	------------------------------

PHARMACY BOARD[657]

Collaborative pharmacy practice, 39.13 IAB 11/3/21 ARC 6012C	Health Professions Board Room 400 S.W. 8th Street, Suite H Des Moines, Iowa	November 24, 2021 10:30 to 11 a.m.
---	---	---------------------------------------

PROFESSIONAL LICENSURE DIVISION[645]

Chiropractic physicians— preceptor approval, 42.5(1) IAB 11/3/21 ARC 6011C	Via video/conference call Meeting link: us02web.zoom.us Meeting ID: 771 308 2382 Passcode: 109739 Via telephone: 1.312.626.6799	November 23, 2021 9 to 9:30 a.m.
Athletic trainers—continuing education, 352.1, 352.3(2) IAB 11/3/21 ARC 6027C	Zoom meeting ID: 889 9122 5024 Via telephone: 1.312.626.6799 Passcode/access code: 757070	November 23, 2021 9 to 9:30 a.m.

REAL ESTATE APPRAISER EXAMINING BOARD[193F]

Review of rules, amendments to chs 1, 4 to 6, 8 to 12 IAB 11/3/21 ARC 6017C	Small Conference Room, Third Floor 200 E. Grand Ave. Des Moines, Iowa	November 29, 2021 11 a.m. to 12 noon
--	---	---

REVENUE DEPARTMENT[701]

Tuition and textbook credit for expenses incurred for dependents, 42.4 IAB 10/20/21 ARC 5990C	Via video/conference call Contact Kurt Konek Email: kurt.konek@iowa.gov	November 15, 2021 2 to 3 p.m. (If requested)
Tax credit—volunteer fire fighters, volunteer EMS personnel, reserve peace officers, 42.49 IAB 10/20/21 ARC 5987C	Via video/conference call Contact Kurt Konek Email: kurt.konek@iowa.gov	November 12, 2021 9:30 to 10:30 a.m. (If requested)

TRANSPORTATION DEPARTMENT[761]

Warning lights on non-state-owned vehicles or equipment when used in road work zones, ch 135 IAB 11/3/21 ARC 6014C	Via conference call Contact Tracy George Email: tracy.george@iowadot.us	November 29, 2021 10 a.m. (If requested)
---	--	--

UTILITIES DIVISION[199]

Federally registered planning authority transmission projects, 11.14 IAB 11/3/21 ARC 6016C	Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa	December 7, 2021 10 a.m. to 12 noon
--	--	--

The following list will be updated as changes occur.

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

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

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

ADMINISTRATIVE SERVICES DEPARTMENT[11]
AGING, DEPARTMENT ON[17]
AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]
 Soil Conservation and Water Quality Division[27]
ATTORNEY GENERAL[61]
AUDITOR OF STATE[81]
BEEF CATTLE PRODUCERS ASSOCIATION, IOWA[101]
BLIND, DEPARTMENT FOR THE[111]
CAPITAL INVESTMENT BOARD, IOWA[123]
CHIEF INFORMATION OFFICER, OFFICE OF THE[129]
OMBUDSMAN[141]
CIVIL RIGHTS COMMISSION[161]
COMMERCE DEPARTMENT[181]
 Alcoholic Beverages Division[185]
 Banking Division[187]
 Credit Union Division[189]
 Insurance Division[191]
 Professional Licensing and Regulation Bureau[193]
 Accountancy Examining Board[193A]
 Architectural Examining Board[193B]
 Engineering and Land Surveying Examining Board[193C]
 Landscape Architectural Examining Board[193D]
 Real Estate Commission[193E]
 Real Estate Appraiser Examining Board[193F]
 Interior Design Examining Board[193G]
 Utilities Division[199]
CORRECTIONS DEPARTMENT[201]
 Parole Board[205]
CULTURAL AFFAIRS DEPARTMENT[221]
 Arts Division[222]
 Historical Division[223]
EARLY CHILDHOOD IOWA STATE BOARD[249]
ECONOMIC DEVELOPMENT AUTHORITY[261]
 City Development Board[263]
IOWA FINANCE AUTHORITY[265]
EDUCATION DEPARTMENT[281]
 Educational Examiners Board[282]
 College Student Aid Commission[283]
 Higher Education Loan Authority[284]
 Iowa Advance Funding Authority[285]
 Libraries and Information Services Division[286]
 Public Broadcasting Division[288]
 School Budget Review Committee[289]
EGG COUNCIL, IOWA[301]
ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]
EXECUTIVE COUNCIL[361]
FAIR BOARD[371]
HUMAN RIGHTS DEPARTMENT[421]
 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]
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 6009C

HUMAN SERVICES DEPARTMENT[441]**Notice of Intended Action****Proposing rule making related to incentive fund for mental health and disability services regions and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 25, “Disability Services Management,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 225C.6.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 225C.7A.

Purpose and Summary

2021 Iowa Acts, Senate File 619, amends Iowa Code section 225C.7A to implement the incentive fund for mental health and disability services (MHDS) regions. This legislation creates a fund for the purpose of providing financial incentives for outcomes met from services provided by the MHDS regions. These proposed amendments implement the process for a region to apply for funds, establish the criteria for eligibility for the incentive fund, set time frames for review and approval of applications and establish the reporting and financial review requirements.

Fiscal Impact

2021 Iowa Acts, Senate File 619, appropriates \$3 million from the General Fund to the incentive fund for SFY22. The amount of incentive fund expenditures is not yet known. Any additional expenditures in year 1 or year 2 will be funded by the MHDS regions.

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on November 23, 2021. Comments should be directed to:

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

HUMAN SERVICES DEPARTMENT[441](cont'd)

Public Hearing

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

Review by Administrative Rules Review Committee

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

Emergency Rule Making Adopted by Reference

This proposed rule making is also published herein as an Adopted and Filed Emergency rule making (see **ARC 6008C**, IAB 11/3/21). The purpose of this Notice of Intended Action is to solicit public comment on that emergency rule making, whose subject matter is hereby adopted by reference.

ARC 6015C

INSURANCE DIVISION[191]

Notice of Intended Action

**Proposing rule making related to review of rules
and providing an opportunity for public comment**

The Insurance Division hereby proposes to amend Chapter 15, “Unfair Trade Practices,” Chapter 16, “Replacement of Life Insurance and Annuities,” Chapter 25, “Military Sales Practices,” Chapter 28, “Credit Life and Credit Accident and Health Insurance,” Chapter 30, “Life Insurance Policies,” Chapter 33, “Variable Life Insurance Model Regulation,” and Chapter 70, “Utilization Review,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 505.8, 505.27A, 505B.1, 507B.4, 507B.12, 508A.4, 509.16, 514F.3 and 522B.18.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 505B, 507B, 508, 508A, 509, 514F and 522B and Iowa Code section 505.27A.

Purpose and Summary

The proposed amendments are a result of the Division’s review of rules and generally update the chapters by removing duplicative definitions and unnecessary language, clarifying procedures, correcting statute references, conforming to current Iowa Code language, and reflecting current practices.

Fiscal Impact

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

INSURANCE DIVISION[191](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 Division for a waiver of the discretionary provisions, if any, pursuant to 191—Chapter 4.

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 no later than 12 noon on November 30, 2021. Comments should be directed to:

Tracy Swalwell
Iowa Insurance Division
1963 Bell Avenue, Suite 100
Des Moines, Iowa 50315
Phone: 515.654.6549
Email: tracy.swalwell@iid.iowa.gov

Public Hearing

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

November 30, 2021
10 a.m.

Via conference call

A conference call number will be available prior to the hearing on the Division's web page at iid.iowa.gov/hearings. Persons wishing to attend the hearing may also contact Tracy Swalwell for hearing information. Persons who wish to make oral comments at the public hearing must submit a request to Tracy Swalwell prior to the public hearing to facilitate an orderly hearing. Persons will be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

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

The public hearing will be canceled without further notice if no public hearing is requested by 12 noon on November 24, 2021.

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 **15.13(1)“b”** as follows:

b. An insurer shall maintain a complete record of all the complaints received since the date of its last examination by the insurer's state of domicile or port-of-entry state. This record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the

INSURANCE DIVISION[191](cont'd)

disposition of each complaint, and the time it took to process each complaint. Appendix IV ~~III~~ sets forth the minimum information required to be contained in the complaint record.

ITEM 2. Amend paragraph **15.14(1)“c”** as follows:

c. Payment of interest at the rate of 10 percent per annum if the commissioner finds that the insurer failed to pay interest as required under Iowa Code section ~~507B.4, subsection 12~~ 507B.4(3)“p”;

ITEM 3. Amend paragraph **15.32(1)“a,”** definitions of “Clean claim” and “Insurer,” as follows:

“*Clean claim*” means clean claim as defined in ~~2001 Iowa Acts, chapter 69, section 8(2b)~~ Iowa Code section 507B.4A.

“*Insurer*” means insurer as defined in ~~2001 Iowa Acts, chapter 69, section 7~~ Iowa Code section 507B.4.

ITEM 4. Amend rule **191—15.32(507B)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 507B.4A, 514G.102 and 514G.111 ~~and 2015 Iowa Acts, House File 632, section 21.~~

ITEM 5. Amend rule **191—15.33(507B)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 507B.4, ~~subsection 9, as amended by 2001 Iowa Acts, chapter 69.~~

ITEM 6. Amend paragraph **15.64(1)“d”** as follows:

d. When an application is received via the Internet:

(1) Taking reasonable steps to make the Buyer’s Guide available for viewing and printing on the insurer’s ~~Web site~~ website shall be deemed to satisfy the requirement that the Buyer’s Guide be provided no later than five business days after receipt of the application.

(2) Taking reasonable steps to make the disclosure document available for viewing and printing on the insurer’s ~~Web site~~ website shall be deemed to satisfy the requirement that the disclosure document be provided no later than five business days after receipt of the application.

ITEM 7. Amend paragraph **15.65(1)“b”** as follows:

b. The insurer’s legal name, physical address, ~~Web site~~ website address and telephone number;

ITEM 8. Amend subrule 15.83(1) as follows:

15.83(1) The indexed products training shall include information on all topics listed in the most recent version of the indexed products training outline available at the division’s ~~Web site,~~ www.iid.iowa.gov website, iid.iowa.gov.

ITEM 9. Amend rule 191—15.85(507B,522B) as follows:

191—15.85(507B,522B) Verification of training. Insurers, producers and third-party contractors may verify a producer’s completion of the indexed products training by accessing the division’s ~~Web site at~~ www.iid.iowa.gov website, iid.iowa.gov.

ITEM 10. Amend rule **191—16.22(507B)**, definition of “Producer,” as follows:

“*Producer*” means a person licensed under Iowa Code chapter ~~522~~ 522B.

ITEM 11. Amend paragraph **16.23(1)“b”** as follows:

b. Group life insurance or group annuities where there is no direct solicitation of individuals by an insurance producer. Direct solicitation shall not include any group meeting held by an insurance producer solely for the purpose of educating or enrolling individuals or, when initiated by an individual member of the group, assisting with the selection of investment options offered by a single insurer in connection with enrolling that individual. Group life insurance or group annuity certificates marketed through direct-response solicitation shall be subject to the provisions of rule ~~16.28(507B)~~ 191—16.28(507B).

ITEM 12. Amend subrule 25.1(3) as follows:

25.1(3) This chapter is issued under the authority of ~~2007 Iowa Acts, House File 499, section 7~~ Iowa Code section 505.27A.

INSURANCE DIVISION[191](cont'd)

ITEM 13. Amend rule **191—25.4(505)**, definitions of “Insurance producer,” “Insurer” and “MyPay,” as follows:

“*Insurance producer*” means ~~a person required to be licensed under the laws of this state to sell, solicit or negotiate life insurance, including annuities~~ the same as defined in Iowa Code section 522B.1.

“*Insurer*” means ~~an insurance company required to be licensed under the laws of this state to provide life insurance products, including annuities~~ the same as defined in Iowa Code section 522B.1.

“*MyPay*” is a Defense Finance and Accounting Service (DFAS) ~~Web-based~~ web-based system that enables service members to process certain discretionary pay transactions or provide updates to personal information data elements without using paper forms.

ITEM 14. Amend rule 191—25.7(505) as follows:

191—25.7(505) Reporting requirements. No insurer may participate in any military sales unless that insurer has implemented a system to report to the Iowa insurance commissioner in a manner prescribed by the commissioner any military sales disciplinary actions about which the insurer had actual awareness, or in the exercise of ordinary care should have known, at the time of the action, and unless the insurer also has reported such action to the commissioner. Failure to comply with this rule shall be a violation of this chapter and shall subject the insurer to penalties set forth in rule ~~25.8(505)~~ 191—25.8(505).

ITEM 15. Amend **191—Chapter 25**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~chapter 505 and 2007 Iowa Acts, House File 499, section 7~~ section 505.27A.

ITEM 16. Amend rule **191—28.2(509)**, definition of “Consumer credit transaction,” as follows:

“*Consumer credit transaction*” ~~shall have the same definition as set out as defined~~ in Iowa Code section ~~537.1301(11) to (14)~~ 537.1301.

ITEM 17. Amend subrule 28.3(7) as follows:

28.3(7) Renewal or refinancing of the indebtedness. If the indebtedness is discharged due to renewal or refinancing prior to the scheduled maturity date, the insurance in force shall be terminated before any new insurance may be issued in connection with the renewed or refinanced indebtedness. In all cases of termination prior to scheduled maturity, a refund shall be paid or credited to the debtor as provided in rule ~~28.8(509)~~ 191—28.8(509). In any renewal or refinancing of the indebtedness, the effective date of the coverage as respects any policy provision shall be deemed to be the first date on which the debtor became insured under the policy covering the indebtedness which was renewed or refinanced, at least to the extent of the amount and term of the indebtedness outstanding at the time of renewal and refinancing of the debt. This subrule shall apply to all consumer credit transactions renewed pursuant to Iowa Code section 537.2504 or 537.2505.

ITEM 18. Amend subrules 28.3(9) and 28.3(10) as follows:

28.3(9) Voluntary prepayment of indebtedness. If a debtor prepays the indebtedness other than as a result of death or through a lump sum disability payment:

a. Any credit life insurance covering the indebtedness shall be terminated and an appropriate refund of the credit life insurance premium shall be paid to the debtor in accordance with rule ~~28.9(509)~~ 191—28.9(509); and

b. Any credit accident and health insurance covering the indebtedness shall be terminated and an appropriate refund of the credit accident and health insurance premium shall be paid to the debtor in accordance with rule ~~28.9(509)~~ 191—28.9(509). If a claim under the coverage is in progress at the time of prepayment, the amount of refund may be determined as if the prepayment did not occur until the payment of benefits terminates. No refund need be paid during any period of disability for which credit accident and health benefits are payable. A refund shall be computed as if prepayment occurred at the end of the disability period.

28.3(10) Involuntary prepayment of indebtedness. If an indebtedness is prepaid by the proceeds of a credit life insurance policy covering the debtor or by a lump sum payment of a disability claim under a credit insurance policy covering the debtor, then it shall be the responsibility of the insurer to see that

INSURANCE DIVISION[191](cont'd)

the following are paid to the insured debtor, if living, or the beneficiary, other than the creditor, named by the debtor or to the debtor's estate:

- a. In the case of prepayment by the proceeds of a credit life insurance policy, or by the proceeds of a lump sum total and permanent disability benefit under credit life coverage, an appropriate refund of the credit accident and health insurance premium in accordance with rule ~~28.9(509)~~ 191—28.9(509);
- b. In the case of prepayment by a lump sum disability claim, an appropriate refund of the credit life insurance premium in accordance with rule ~~28.9(509)~~ 191—28.9(509);
- c. No change.

ITEM 19. Amend rule ~~191—28.5(509)~~ as follows:

191—28.5(509) Determination of reasonableness of benefits in relation to premium charge.

28.5(1) General standard. Under the credit insurance law, benefits provided by credit insurance policies must be reasonable in relation to the premium charged. This requirement is satisfied if the premium rate charged develops or may be reasonably expected to develop a loss ratio of not less than 50 percent. With the exception of deviations approved under rule ~~28.11(509)~~ 191—28.11(509), the rates shown in rules ~~28.7(509)~~ 191—28.7(509) and ~~28.8(509)~~ 191—28.8(509), as adjusted pursuant to rule ~~28.10(509)~~ 191—28.10(509), shall be conclusively presumed to satisfy this general standard.

28.5(2) Nonstandard coverage. If any insurer files for approval of any form providing coverage more restrictive than that described in rules ~~28.7(509)~~ 191—28.7(509) and ~~28.8(509)~~ 191—28.8(509), the insurer shall demonstrate to the satisfaction of the insurance commissioner that the premium rates to be charged for the restricted coverage will develop or may be reasonably expected to develop a loss ratio not less than that contemplated for standard coverage at the premium rates described in these rules.

28.5(3) Coverage without separate charge. If no specific charge is made to the debtor for credit insurance, the standards of this rule are not required to be used; but any premium rates resulting from the standards used which exceed the premium rate standards set out in rules ~~28.7(509)~~ 191—28.7(509) and ~~28.8(509)~~ 191—28.8(509) must be filed with the insurance commissioner. For purposes of this subrule, it will be considered that the debtor is charged a specific amount for insurance if an identifiable charge for insurance is disclosed in the credit or other instrument furnished the debtor which sets out the financial elements of the credit transactions, or if there is a differential in finance, interest, service or other similar charge made to debtors who are in like circumstances, except for their insured or noninsured status.

ITEM 20. Amend subrule 28.10(2) as follows:

28.10(2) The insurance commissioner will, no later than on a triennial basis, review the loss ratio standards set forth in rule ~~28.5(509)~~ 191—28.5(509), and the prima facie rates set forth in rules ~~28.7(509)~~ 191—28.7(509) and ~~28.8(509)~~ 191—28.8(509) and determine the rate of expected claims on a statewide basis, compare the rate of expected claims with the rate of actual claims for the preceding triennium determined from the incurred claims and earned premiums at prima facie rates reported in the annual statement supplement, and publish the adjusted actual statewide prima facie rates to be used by insurers during the next triennium. These rates will reflect the difference between (a) actual claims based on experience; and (b) expected claims based on the loss ratio standards set forth in rule ~~28.5(509)~~ 191—28.5(509) applied to the prima facie rates set forth in rules ~~28.7(509)~~ 191—28.7(509) and ~~28.8(509)~~ 191—28.8(509).

ITEM 21. Amend subrules 28.11(2) and 28.11(3) as follows:

28.11(2) Use of prima facie rates. An insurer that files rates or has rates on file that are not in excess of the prima facie rates shown in rules ~~28.7(509)~~ 191—28.7(509) and ~~28.8(509)~~ 191—28.8(509), to the extent adjusted pursuant to rule ~~28.10(509)~~ 191—28.10(509), may use those rates without further proof of their reasonableness.

28.11(3) Use of rates higher than prima facie rates. An insurer may file for approval of and use rates that are higher than the prima facie rates shown in rules ~~28.7(509)~~ 191—28.7(509) and ~~28.8(509)~~ 191—28.8(509), to the extent adjusted pursuant to rule ~~28.10(509)~~ 191—28.10(509), if it can be expected that the use of higher rates will result in a ratio of claims incurred to premiums earned (assuming the use of the higher rates) that is not less than 50 percent for those accounts to which the higher rates apply

INSURANCE DIVISION[191](cont'd)

and that the upward deviations will not result on a statewide basis in that insurer having a ratio of claims incurred to premiums earned less than the expected loss ratio underlying the current prima facie rate developed or adjusted pursuant to rule ~~28.10(509)~~ 191—28.10(509).

If rates higher than the prima facie rates shown in rules ~~28.7(509)~~ 191—28.7(509) and ~~28.8(509)~~ 191—28.8(509), to the extent adjusted pursuant to rule ~~28.10(509)~~ 191—28.10(509), are filed for approval, the filing shall specify the account to which the rates apply. The rates may be:

a. and *b.* No change.

ITEM 22. Amend rule 191—30.1(508) as follows:

191—30.1(508) Purpose. In the best interest of the citizens of Iowa and to maintain a fair and honest life insurance market, certain types of life policy forms and certain policy provisions shall be either prohibited, altered or clarified as set out herein.

This rule is intended to implement Iowa Code section 505.8 and chapter 508.

ITEM 23. Amend rule 191—30.2(508) as follows:

191—30.2(508) Scope. These rules shall apply to all insurance policies issued by insurance companies holding a certificate of authority under the provisions of Iowa Code chapter 508.

This rule is intended to implement Iowa Code section 505.8 and chapter 508.

ITEM 24. Amend rule 191—30.3(508) as follows:

191—30.3(508) Definitions. Certain life insurance policy forms and provisions referred to herein shall have the following meaning:

30.3(1) ~~“Founders policy.” The term or name assigned to~~ “Founders policy” means a policy of insurance offered to the public by a newly organized stock life insurance company, issued on a participating basis with the representations that the purchasers will share preferentially in the future divisible surplus earnings of the company arising from all classes of business, both participating and nonparticipating, and all plans of insurance.

30.3(2) ~~“Profit-sharing policy.” It is any~~ “Profit-sharing policy” means a policy form which contains provisions or is represented in such a way that the policyholder will be eligible to preferentially participate in any future distribution of general corporate profits.

30.3(3) ~~“Coupon policy.” It is any~~ “Coupon policy” means a policy or contract of life insurance, other than annuity, which contains in addition to basic life insurance benefits a series of annual pure endowment benefits evidenced in the policy contract by a series of coupons each of which matures on the maturation date of an annual pure endowment. For the purposes of these rules, policies containing annual pure endowments evidenced by coupons, passbooks or other devices generally acquainted with savings, banking or investment institutions shall be considered coupon policies.

30.3(4) ~~“Pure endowment benefit.” It is~~ “Pure endowment benefit” means a guaranteed insurance benefit, actuarially determined, the payment of which is contingent upon the survival of the insured to a specific point in time.

ITEM 25. Amend rule 191—30.4(508) as follows:

191—30.4(508) Prohibitions, regulations and disclosure requirements. In accordance with the purpose expressed in ~~30.1(508)~~ rule 191—30.1(508) and in conjunction with the intent of Iowa Code section 508.28, the use of certain types of policy forms and policy provisions shall be subject to the following prohibitions and regulations:

30.4(1) to 30.4(5) No change.

This rule is intended to implement Iowa Code sections 508.25 and 508.28.

ITEM 26. Adopt the following **new** implementation sentence in rule **191—30.5(508)**:

This rule is intended to implement Iowa Code sections 508.25 and 508.28.

INSURANCE DIVISION[191](cont'd)

ITEM 27. Adopt the following **new** implementation sentence in rule **191—30.6(508)**:
This rule is intended to implement Iowa Code sections 508.25 and 508.28.

ITEM 28. Adopt the following **new** implementation sentence in rule **191—30.7(508,515)**:
This rule is intended to implement Iowa Code sections 508.2 and 515.109.

ITEM 29. Amend rule 191—30.8(509) as follows:

191—30.8(505B,509) Electronic delivery of group life insurance certificates.

30.8(1) to 30.8(4) No change.

This rule is intended to implement Iowa Code chapters 505B and 509.

ITEM 30. Amend rule 191—30.9(505,508) as follows:

191—30.9(505 505B,508) Notice of cancellation, nonrenewal or termination of life insurance and annuities.

30.9(1) to 30.9(4) No change.

This rule is intended to implement Iowa Code chapters 505B and 508.

ITEM 31. Rescind the chapter implementation sentence in **191—Chapter 30**.

ITEM 32. Amend rule 191—33.2(508A) as follows:

191—33.2(508A) Definitions. As used in this chapter:

33.2(1) “*Affiliate*” of an insurer means any person, directly or indirectly, controlling, controlled by, or under common control with such insurer; any person who regularly furnishes investment advice to such insurer with respect to its separate accounts for which a specific fee or commission is charged; or any director, officer, partner, or employee of any such insurer, controlling or controlled person, or person providing investment advice or any member of the immediate family of such person.

~~**33.2(2)** Rescinded IAB 3/24/99, effective 4/28/99.~~

33.2(3) “*Assumed investment rate*” means the rate of investment return which would be required to be credited to a variable life insurance policy, after deduction of charges for taxes, investment expenses, and mortality and expense guarantees to maintain the variable death benefit equal at all times to the amount of death benefit, other than incidental insurance benefits, which would be payable under the plan of insurance if the death benefit did not vary according to the investment experience of the separate account.

33.2(4) “*Benefit base*” means the amount to which the net investment return is applied.

33.2(5) “*Commissioner*” means the ~~insurance commissioner of the state of Iowa.~~ same as defined in rule 191—1.1(502,505).

33.2(6) “*Control*” (including the terms “controlling,” “controlled by” and “under common control with”) means the possession, direct or indirect, of the power to direct or cause the direction of the management of policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing more than 10 percent of the voting securities of any other person. This presumption may be rebutted by a showing made to the satisfaction of the commissioner that control does not exist in fact. The commissioner may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support such determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

33.2(7) “*Flexible premium policy*” means any variable life insurance policy other than a scheduled premium policy as specified in subrule 33.2(15).

33.2(8) “*General account*” means all assets of the insurer other than assets in separate accounts established pursuant to Iowa Code section 508A.1 or pursuant to the corresponding section of the insurance laws of the state of domicile of a foreign or alien insurer, whether or not for variable life insurance.

INSURANCE DIVISION[191](cont'd)

33.2(9) “*Incidental insurance benefit*” means all insurance benefits in a variable life insurance policy, other than the variable death benefit and the minimum death benefit, including but not limited to accidental death and dismemberment benefits, disability benefits, guaranteed insurability options, family income, or term riders.

33.2(10) “*May*” is permissive.

33.2(11) “*Minimum death benefit*” means the amount of the guaranteed death benefit, other than incidental insurance benefits, payable under a variable life insurance policy regardless of the investment performance of the separate account.

33.2(12) “*Net investment return*” means the rate of investment return in a separate account to be applied to the benefit base.

33.2(13) “*Person*” means an individual, corporation, partnership, association, trust, or fund.

33.2(14) “*Policy processing day*” means the day on which charges authorized in the policy are deducted from the policy’s cash value.

“*Producer*” means the same as defined in rule 191—10.2(522B).

33.2(15) “*Scheduled premium policy*” means any variable life insurance policy under which both the amount and timing of premium payments are fixed by the insurer.

33.2(16) “*Separate account*” means a separate account established pursuant to Iowa Code section 508A.1 or pursuant to the corresponding section of the insurance laws of the state of domicile of a foreign or alien insurer.

33.2(17) “*Shall*” is mandatory.

33.2(18) “*Variable death benefit*” means the amount of death benefit, other than incidental insurance benefits, payable under a variable life insurance policy dependent on the investment performance of the separate account, which the insurer would have to pay in the absence of any minimum death benefit.

33.2(19) “*Variable life insurance policy*” means any individual policy which provides for life insurance the amount or duration of which varies according to the investment experience of any separate account or accounts established and maintained by the insurer as to such policy, pursuant to Iowa Code section 508A.1 or pursuant to the corresponding section of the insurance laws of the state of domicile of a foreign or alien insurer.

ITEM 33. Amend subrule 33.3(2), introductory paragraph, as follows:

33.3(2) *Filing for approval to do business in this state.* ~~The commissioner may, at the commissioner’s discretion, require that an~~ An insurer, before it delivers or issues for delivery any variable life insurance policy in this state, shall file with this division the commissioner the following information for the consideration of the commissioner in making the determination required by subrule 33.3(1):

ITEM 34. Amend subrule 33.4(1) as follows:

33.4(1) *Filing of variable life insurance policies.* ~~All~~ Prior to delivery or issuance for delivery in this state, all variable life insurance policies, and all riders, endorsements, applications and other documents which are to be attached or made a part of the policy and which relate to the variable nature of the policy, shall be filed with the commissioner using the National Association of Insurance Commissioners’ System for Electronic Rate and Form Filing (SERFF) and shall be approved by the commissioner prior to delivery or issuance for delivery in this state. Insurance companies must comply with the commissioner’s requirements regarding filing, including SERFF general instructions, Iowa general instructions and the specific submission requirements for the type of insurance for which the companies are submitting documents, as set out on the SERFF website at www.serff.org.

a. and *b.* No change.

c. A filing which has not been previously approved, disapproved or questioned shall be deemed approved on or after 30 days from its receipt by the ~~division~~ commissioner.

ITEM 35. Amend subparagraph **33.4(3)“a”(5)** as follows:

(5) A captioned provision that the policyholder may return the variable life insurance policy within ten days of receipt of the policy by the policyholder, and receive a refund equal to the sum of:

1. No change.

INSURANCE DIVISION[191](cont'd)

2. The value of the amounts allocated to any separate accounts under the policy, on the date the returned policy is received by the insurer or its agent producer;

ITEM 36. Amend subparagraph **33.6(10)“c”(4)** as follows:

(4) A statement provided by the proposed advisor as to whether the advisor or any person associated therewith:

Has been convicted within ten years of any felony or misdemeanor arising out of such person's conduct as an employee, salesperson, officer or director of an insurance company, a banker, an insurance agent producer, a securities broker, or an investment advisor involving embezzlement, fraudulent conversion, or misappropriation of funds or securities, or involving the violation of Section 1341, 1342, or 1343 of Title 18 of United States Code;

Has been permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as an investment advisor, underwriter, broker, or dealer, or as an affiliated person or as an employee of any investment company, bank, or insurance company, or from engaging in or continuing any conduct or practice in connection with any such activity;

Has been found by federal or state regulatory authorities to have willfully violated or have acknowledged willful violation of any provision of federal or state securities laws or state insurance laws or of any rule or regulation under any such laws; or

Has been censured, denied an investment advisor registration, had a registration as an investment advisor revoked or suspended, or been barred or suspended from being associated with an investment advisor by order of federal or state regulatory authorities; and

ITEM 37. Amend subrule 35.8(1) as follows:

35.8(1) Purpose. The purpose of this rule is to authorize the electronic delivery of accident and health group insurance certificates in an efficient manner by insurers and group policyholders, while guaranteeing that individual plan members still receive the important information contained in such group insurance certificates, as required by Iowa Code section ~~509.3(2)~~, 509.3(1)“b,” and as allowed by the uniform electronic transactions Act, Iowa Code chapter 554D.

ITEM 38. Amend subrule 35.8(3), introductory paragraph, as follows:

35.8(3) Electronic delivery—insurance companies. The insurer will be deemed to comply with the requirements of Iowa Code section ~~509.3(2)~~ 509.3(1)“b” if the group insurance certificate is delivered to the group policyholder electronically and if:

ITEM 39. Amend subrule 35.8(4), introductory paragraph, as follows:

35.8(4) Electronic delivery—group policyholders. The group policyholder will be deemed to comply with the requirements of Iowa Code section ~~509.3(2)~~ 509.3(1)“b” if the group insurance certificate is delivered to the individual plan member electronically and if:

ITEM 40. Amend rule 191—70.4(505,514F) as follows:

191—70.4(505,514F) Standards. For the purpose of certification and compliance under rule ~~70.3(505,514F)~~ 191—70.3(505,514F), the most recently available utilization review standards adopted by URAC shall be used.

A copy of the standards and application for accreditation may be obtained from the Utilization Review Accreditation Commission, 1227 25th Street N.W., Suite 610, Washington, D.C. 20037 at www.urac.org. A copy of the standards shall be readily available and maintained on the premises of any third-party payor conducting utilization review.

ITEM 41. Amend rule 191—70.8(76GA, ch1202) as follows:

191—70.8(76GA, ch1202 514C) Utilization review of postdelivery benefits and care. When performing utilization review of inpatient hospital services related to maternity and newborn care, including but not limited to length of postdelivery stay and postdelivery follow-up care, a third-party payor shall use the guidelines adopted under the provisions of rule 191—81.3(76GA, ch1202 514C) and shall not deselect, require additional documentation, require additional utilization review, terminate

INSURANCE DIVISION[191](cont'd)

services to, reduce payment to, or in any manner provide a disincentive to an attending physician solely on the basis that the attending physician provided or directed the provision of services in compliance with those guidelines. This does not preclude a third-party payor from monitoring a patient's stay or making reasonable inquiries necessary to assess patient progress in accordance with the guidelines and to coordinate discharge planning or postdischarge care.

This rule is intended to implement Iowa Code section 514C.11.

ITEM 42. Amend subrules 70.10(1) and 70.10(2) as follows:

70.10(1) Purpose. This rule implements Iowa Code section 514F.6 ~~as amended by 2010 Iowa Acts, Senate File 2201, section 16,~~ which provides for the retrospective payment of clean claims for covered services provided by a physician, advanced registered nurse practitioner or physician assistant during the credentialing period, once the physician, advanced registered nurse practitioner or physician assistant is credentialed.

70.10(2) Definitions. For purposes of this rule, the definitions found in Iowa Code section 514F.6 ~~as amended by 2010 Iowa Acts, Senate File 2201, section 16,~~ shall apply. In addition, the following definitions shall apply:

"Application date" means the date on which the health insurer or other entity responsible for the credentialing of health care professionals on behalf of the health insurer receives the health care professional's completed application for credentialing.

"Clean claim" means clean claim as defined in Iowa Code section 507B.4A(2) "b."

"Health care professional" means a physician, advanced registered nurse practitioner or physician assistant.

"Health insurer" means the same as a carrier, as defined in Iowa Code section 513B.2(4), that provides health insurance coverage, as defined in Iowa Code section 513B.2(12).

ARC 6010C

INSURANCE DIVISION[191]

Notice of Intended Action

**Proposing rule making related to licensing of public adjusters
and providing an opportunity for public comment**

The Insurance Division hereby proposes to amend Chapter 55, "Licensing of Public Adjusters," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 522C.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 522C.

Purpose and Summary

This proposed rule making updates the chapter by correcting cross-references, clarifying procedures and public adjuster duties, and updating language. Consumer protections are enhanced by ensuring a public adjuster operates without any conflicts of interest and serves with objectivity and complete loyalty in the interests of the consumer. This rule making also further clarifies acceptable contract terms, fee schedules, and processing of claim payments.

Fiscal Impact

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

INSURANCE DIVISION[191](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 Commissioner for a waiver of the discretionary provisions, if any, pursuant to 191—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 Commissioner no later than 12 noon on December 1, 2021. Comments should be directed to:

Tracy Swalwell
Iowa Insurance Division
1963 Bell Avenue, Suite 100
Des Moines, Iowa 50315
Phone: 515.654.6549
Email: tracy.swalwell@iid.iowa.gov

Public Hearing

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

December 1, 2021
10 a.m.

Via conference call

A conference call number will be available prior to the hearing on the Division's web page at iid.iowa.gov/hearings. Persons wishing to attend the hearing may also contact Tracy Swalwell for hearing information. Persons who wish to make oral comments at the public hearing must submit a request to Tracy Swalwell prior to the public hearing to facilitate an orderly hearing. Persons will be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rule 191—55.5(522C) as follows:

191—55.5(522C) Issuance of resident license.

55.5(1) License of individual. Before approving an individual's application, the division shall find that the applicant:

a. No change.

INSURANCE DIVISION[191](cont'd)

b. Has not committed any act that ~~is a ground for~~ could result in denial, suspension or revocation of a license as set forth in rule ~~191—55.17(522C)~~ 191—55.12(522C);

c. to f. No change.

g. Is at least 18 years of age; ~~and~~

h. Has successfully passed the public adjuster examination pursuant to rule ~~191—55.6(522C)~~; ~~and~~

i. Has submitted to the division the contract the applicant intends to use pursuant to rule 191—55.14(522C).

55.5(2) License of business entity. Before approving a business entity's application, the division shall find that the business entity has:

a. Paid the fees set forth in rule ~~191—55.20(522C)~~;

b. Designated a licensed public adjuster responsible for the business entity's compliance with the insurance laws, rules and regulations of this state; ~~and~~

c. Designated a licensed individual public adjuster responsible for the business entity's compliance with the insurance laws, rules, and regulations of this state; ~~and~~

d. Submitted to the division the contract the applicant intends to use pursuant to rule 191—55.14(522C).

55.5(3) Supplemental documentation. The division may require the applicant for either type of license to supply any documents reasonably necessary to ~~verify the information contained in the application~~ aid the division in making its determination.

ITEM 2. Amend rule 191—55.8(522C) as follows:

191—55.8(522C) Nonresident license reciprocity.

55.8(1) Unless denied licensure pursuant to rule 191—55.12(522C), an individual or business entity for whom Iowa is not the individual's or business entity's home state, but whose home state awards nonresident public adjuster licenses to residents of Iowa on the same basis, must satisfy the following requirements to obtain an Iowa nonresident public adjuster license:

a. Be licensed as a resident public adjuster and in good standing in the individual's home state;

b. Submit a proper request for licensure to the division through the NIPR Gateway; ~~and~~

c. Pay the appropriate fees required, as set forth in rule ~~191—55.20(522C)~~;

d. Be trustworthy, reliable, and of good reputation, evidence of which may be determined by the division; and

e. Submit to the division the contract the applicant intends to use pursuant to rule 191—55.14(522C).

55.8(2) and 55.8(3) No change.

55.8(4) If an individual's or business entity's home state does not license public adjusters or business entity public adjusters or does not award nonresident public adjuster licenses to residents of Iowa on the same basis, the nonresident individual or business entity shall follow the procedures for obtaining a license set out in rule ~~191—55.5(522C)~~.

55.8(5) The division may require an applicant to supply any documents reasonably necessary to aid the division in making its determination.

ITEM 3. Adopt the following new paragraph **55.9(7)“g”**:

g. A public adjuster applying for renewal of a license shall submit to the division a copy of the contract the applicant intends to use pursuant to rule 191—55.14(522C).

ITEM 4. Amend subrule 55.12(1) as follows:

55.12(1) The commissioner may place on probation, suspend, revoke or refuse to issue or renew a public adjuster's license; may levy a civil penalty in accordance with Iowa Code section 505.7A; or may take corrective action pursuant to Iowa Code section 505.8, or any combination of actions, for any one or more of the following causes:

a. to p. No change.

INSURANCE DIVISION[191](cont'd)

- q.* Failing to report to the division any notifications or actions required to be reported pursuant to rule 191—55.9(522C); ~~or~~
- r.* Failing to file reports required by this chapter; ~~or~~
- s.* Failing or refusing to cooperate in an investigation by the division.

ITEM 5. Amend subrule 55.14(1) as follows:

55.14(1) Public adjusters shall ensure that all contracts for their services are in writing and contain the following terms:

a. Legible full name of the adjuster signing the contract, as specified in division records; Name and address of the public adjuster negotiating the contract and, if applicable, the name, address, and license number of the business entity with which the public adjuster is associated;

b. to i. No change.

j. Attestation language stating that the public adjuster is fully bonded pursuant to state law; ~~and~~

k. Full salary, fee commission, compensation or other considerations Compensation the public adjuster is to receive for services, whether it be an hourly rate, flat fee, percentage of settlement, or some other method of compensation, and a detailed explanation of how the amount is to be specifically calculated based on the services provided by the public adjuster; and

l. Statement that the total compensation amount payable to the public adjuster shall not exceed 10 percent of the claim settlement pursuant to subrule 55.18(3).

ITEM 6. Amend subrule 55.14(3), introductory paragraph, as follows:

55.14(3) If the insurer, not later than ~~72 hours~~ five days after the date on which the loss is reported to the insurer, either pays or commits in writing to pay to the insured the policy limit of the insurance policy, the public adjuster shall:

ITEM 7. Rescind and reserve subrule **55.14(4)**.

ITEM 8. Amend subrule 55.14(5) as follows:

55.14(5) A public adjuster contract may not contain any contract term that:

a. and b. No change.

c. Imposes collection costs or late fees; ~~or~~

d. Precludes a public adjuster from pursuing civil remedies; ~~or~~

e. Restricts an insured's right to initiate and maintain direct communications with the insured's attorney, the insurer, the insurer's adjuster, the insurer's attorney, or any other person regarding settlement of the insured's claim.

ITEM 9. Amend rule 191—55.15(522C) as follows:

191—55.15(522C) Escrow accounts. A public adjuster who receives, accepts or holds, on behalf of an insured, any funds toward the settlement of a claim for loss or damage shall deposit the funds in a non-interest-bearing escrow or trust account in a financial institution that is insured by an agency of the federal government in the public adjuster's home state or where the loss occurred.

ITEM 10. Amend subrule 55.16(1) as follows:

55.16(1) A public adjuster shall maintain a complete record of each transaction as a public adjuster. The records required by this rule shall include the following:

a. to h. No change.

i. The name of the attorney representing the insured, if applicable, and the name of the claims representative of the insurance company; ~~and~~

j. Evidence of financial responsibility in a format prescribed by the insurance division; ~~and~~

k. All records related to the authorization and notice requirements of subrule 55.17(15).

ITEM 11. Amend subrule 55.17(1) as follows:

55.17(1) A public adjuster shall serve with objectivity and complete loyalty the interest of the ~~public adjuster's client~~ insured and shall render to the insured in good faith such information, counsel and service, as within the knowledge, understanding and opinion of the licensed public adjuster, as will best serve the insured's insurance claim needs and interest.

INSURANCE DIVISION[191](cont'd)

ITEM 12. Amend subrules 55.17(4) and 55.17(5) as follows:

55.17(4) A public adjuster shall not have a direct or indirect financial interest in any aspect of the claim, other than the salary, fee, commission or other consideration established in the written contract with the insured, ~~unless full written disclosure has been made to the insured as set forth in subrule 55.14(4).~~

55.17(5) A public adjuster shall not acquire any interest in salvage of property subject to the contract with the insured unless the public adjuster obtains written permission from the insured after settlement of the claim ~~with the insurer as set forth in subrule 55.14(4).~~

ITEM 13. Rescind and reserve subrule **55.17(6)**.

ITEM 14. Amend subrule 55.17(7) as follows:

55.17(7) Licensed public adjusters may not solicit a ~~client~~ an insured for employment between the hours of 8 p.m. and 9 a.m.

ITEM 15. Amend subrule 55.17(10) as follows:

55.17(10) A public adjuster shall not knowingly make any false oral or written material statements regarding any person engaged in the business of insurance to any insured ~~client~~ or potential insured ~~client~~.

ITEM 16. Adopt the following **new** subrules 55.17(14) and 55.17(15):

55.17(14) A public adjuster shall not engage in any act or practice that may be reasonably construed as a conflict of interest. A conflict of interest includes, but is not limited to, the following:

a. Having a direct or indirect financial interest with a person responsible for the reconstruction, repair, or restoration of the damaged property that is the subject of a claim; and

b. Being an owner, employee, agent or investor in a business entity responsible for the reconstruction, repair or restoration of the damaged property that is the subject of a claim.

55.17(15) Authorization and notice of claim payments.

a. If the public adjuster and the insured contract for the public adjuster to be named as a co-payee on any claim payments issued by the insurance company, the public adjuster shall obtain written authorization from the insured in order for the public adjuster to sign or endorse a payment, draft, or check on behalf of an insured.

b. The authorization can be withdrawn by the insured at any time upon written notice to the public adjuster. Authorization and notice may be given and received through electronic means in compliance with Iowa Code section 554D.110. All records of authorization and notice must be maintained by the public adjuster in compliance with rule 191—55.16(522C).

c. If the public adjuster is granted authorization and receives a check, the public adjuster must do the following:

(1) Endorse the check or payment for deposit only into the public adjuster's non-interest-bearing escrow or trust account; and

(2) Notify the insured of the deposit of funds no later than five business days after receipt by the public adjuster.

ITEM 17. Amend subrule 55.18(3) as follows:

55.18(3) ~~In the event of a catastrophic disaster, there shall be limits on catastrophic fees.~~ No public adjuster shall charge, agree to or accept as compensation or reimbursement any payment, commission, fee, or other thing of value equal to or more than 10 percent of any insurance settlement or proceeds. No public adjuster shall require, demand or accept any fee, retainer, compensation, deposit, or other thing of value, prior to settlement of a claim, ~~unless the loss is being handled by the public adjuster on a time plus expense basis.~~

ITEM 18. Adopt the following **new** subrule 55.18(4):

55.18(4) If a public adjuster enters into a contract with an insured to reopen a claim or file a supplemental claim that seeks additional payments for a claim that has been previously paid in part or in full or settled by the insurer, the public adjuster shall not charge, agree to or accept as compensation or reimbursement any payment, commission, fee, or other thing of value based on a previous settlement

INSURANCE DIVISION[191](cont'd)

or previous claim payments by the insurer for the same cause of loss. The charge, compensation, payment, commission, fee, or any other thing of value must be based only on the claim payments or settlement obtained through the work of the public adjuster after entering into the contract with the insured. Compensation for the reopened or supplemental claim may not exceed the limitations set forth in subrule 55.18(3).

ARC 6028C

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

Proposing rule making related to Class I dock permits and providing an opportunity for public comment

The Natural Resource Commission (Commission) hereby proposes to amend Chapter 16, “Docks and Other Structures on Public Waters,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 455A.5(6), 461A.4(1)“b” and 462A.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 461A.4 and 461A.18.

Purpose and Summary

Chapter 16 contains rules governing docks and boat hoists, including the issuance of Class I dock permits. The proposed rule making amends subrules 16.4(3) and 16.17(1), which designate procedures for issuing Class I dock permits. These amendments would change the existing term of the Class I permit from five years to a perpetual term. The permit would be valid until the property is sold or transferred or until the dock no longer meets the criteria for a Class I permit.

Currently, the Department of Natural Resources (Department), on behalf of the Commission, manages 7,683 dock permits in its dock program. Of these docks, 4,854 have Class I permits. Eliminating routine Class I permit reapplications would simplify the process for Class I permittees and significantly reduce the amount of staff time spent assisting Class I dock permittees. This will allow staff to work on other Department priorities.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa because it requires no additional revenues or staffing to implement. A copy of the fiscal impact statement is available from the Department upon request.

Jobs Impact

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

Waivers

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

NATURAL RESOURCE COMMISSION[571](cont'd)

Public Comment

Any interested person may submit 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 November 30, 2021. Comments should be directed to:

Ben Bergman
Iowa Department of Natural Resources
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319
Email: ben.bergman@dnr.iowa.gov

Public Hearing

A public hearing at which persons may present their views orally will be held via conference call as follows. Persons who wish to attend the conference call should contact Ben Bergman via email. A conference call number will be provided prior to the hearing. Persons who wish to make oral comments at the conference call public hearing must submit a request to Ben Bergman prior to the hearing to facilitate an orderly hearing.

November 30, 2021
10 a.m.

Conference call

Persons who wish to make oral comments at the public hearing will 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 hearing and have special requirements, such as those related to hearing impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend subrule 16.4(3) as follows:

16.4(3) Procedures for issuance of Class I dock permits. The owner of a standard dock eligible for a Class I permit under the criteria in 16.4(1) or a dock in an area specified in 16.4(2) shall apply for a Class I dock permit on an application form supplied by the department. The applicant shall certify that the dock meets the criteria for a Class I permit. The department shall approve the application based on the applicant's certification and shall assign a permit number, which may be a series of numbers or letters, or a combination of numbers and letters. The applicant shall be responsible for obtaining stickers with the permit numbers and letters, for attaching them to the end of the dock facing opposite from the shoreline, and for displaying the 911 address as provided in 16.3(5). Class I dock permits authorized by this rule may be issued for terms up to five years and shall be issued without administrative fee and remain valid until the property is sold or transferred. In the event the property is sold or transferred, the new owner may request to transfer the Class I dock permit as provided in 16.17(1). A Class I dock permit shall be valid only while dock and hoists comply with the criteria for a Class I permit.

ITEM 2. Amend subrule 16.17(1) as follows:

16.17(1) Duration and transferability of dock permits; administrative fee refunds. ~~Each~~ With the exception of Class I dock permits, each dock permit shall be issued for a term of five years unless a

NATURAL RESOURCE COMMISSION[571](cont'd)

shorter term is needed due to specified circumstances. The administrative fee paid with an application is nonrefundable unless the application is withdrawn before the department incurs administrative expense in investigating the application. A dock permit is automatically transferable to a new owner of the shoreline property upon request of the new owner.

ARC 6012C

PHARMACY BOARD[657]

Notice of Intended Action

Proposing rule making related to collaborative pharmacy practice and providing an opportunity for public comment

The Board of Pharmacy hereby proposes to amend Chapter 39, "Expanded Practice Standards," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in 2021 Iowa Acts, Senate File 296.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2021 Iowa Acts, Senate File 296.

Purpose and Summary

The proposed amendment updates a Board rule relating to collaborative pharmacy practice agreements between pharmacists and Iowa-licensed prescribers who have independent prescribing authority. The rule making identifies the minimum required elements of such agreements.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 657—Chapter 34.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on November 23, 2021. Comments should be directed to:

Sue Mears
Board of Pharmacy
400 S.W. 8th Street, Suite E
Des Moines, Iowa 50309
Email: sue.mears@iowa.gov

PHARMACY BOARD[657](cont'd)

Public Hearing

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

November 24, 2021
10:30 to 11 a.m.

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

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

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Rescind rule 657—39.13(155A) and adopt the following new rule in lieu thereof:

657—39.13(155A) Collaborative pharmacy practice.

39.13(1) Definitions. For the purpose of this rule, the following definitions shall apply:

“Collaborative pharmacy practice” means a practice of pharmacy whereby one or more pharmacists provides patient care and drug therapy management services not otherwise permitted to be performed by a pharmacist to patients under a collaborative pharmacy practice agreement with one or more practitioners which defines the nature, scope, conditions, and limitations of the patient care and drug therapy management services to be provided by the pharmacist(s) in order to ensure that a patient achieves the desired outcomes.

“Practitioner” means a physician, dentist, podiatric physician, veterinarian, optometrist, or advanced registered nurse practitioner who holds an active license to practice in Iowa.

39.13(2) Collaborative practice agreement.

a. Pursuant to these rules, a pharmacist or pharmacy may engage in collaborative pharmacy practice under a collaborative pharmacy practice agreement with one or more practitioners to provide patient care and drug therapy management services to one or more patients.

b. A collaborative pharmacy practice agreement shall include:

(1) The identification of the parties to the agreement, including the name(s) or category of the pharmacist(s), including registered pharmacist-intern(s) under the supervision of a pharmacist, who are authorized to perform delegated activities under the agreement and the name(s) or category of the practitioner(s) who are delegating activities under the agreement;

(2) The establishment of the delegating practitioner's scope of practice authorized in the agreement and a description of the permitted activities and decisions to be performed by the pharmacist(s);

(3) The protocol, formulary, or clinical guidelines that describe or limit the pharmacist's authority to perform the patient care or drug therapy management services and, as applicable, the drug name, class or category provided under drug therapy management;

(4) A description of the process to monitor compliance with the agreement and clinical outcomes of patients;

(5) The effective date;

(6) A provision addressing termination of the agreement; and

(7) The signatures of the parties to the agreement and dates of signing.

PHARMACY BOARD[657](cont'd)

c. Parties to the collaborative pharmacy practice agreement shall review and revise such agreement as appropriate, but no less than every two years.

d. Any collaborative pharmacy practice agreement shall be maintained by the pharmacist(s) or pharmacy and be available upon request or inspection.

e. Prior to engaging in patient care or drug therapy management services under a collaborative pharmacy practice agreement, including when the agreement is updated, each pharmacist practicing under the agreement shall attest that the pharmacist has read and understand the agreement. Documentation of pharmacist attestation shall be maintained by the pharmacy for at least two years from the attestation date and be available upon request or inspection.

ARC 6011C**PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action****Proposing rule making related to chiropractic physician preceptors
and providing an opportunity for public comment**

The Board of Chiropractic hereby proposes to amend Chapter 42, “Colleges for Chiropractic Physicians,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 147.76 and 151.11.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 151.

Purpose and Summary

The proposed amendment changes the outdated process for preceptor approval by redirecting authority back to the chiropractic schools, which can independently search the Board’s website to confirm licensure and disciplinary action of a preceptor.

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 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 November 923, 2021. Comments should be directed to:

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Susan Reynolds
Professional Licensure Division
Iowa Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.281.5234
Fax: 515.281.3121
Email: susan.reynolds@idph.iowa.gov

Public Hearing

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

November 23, 2021
9 to 9:30 a.m.

Via video/conference call
Meeting Link: us02web.zoom.us, click "join"
Meeting ID: 771 308 2382
Passcode: 109739
Via telephone: 1.312.626.6799

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. In an effort to ensure accuracy in memorializing a person's comments, a person may provide written comments in addition to or in lieu of oral comments at the hearing.

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Amend subrule 42.5(1) as follows:

42.5(1) ~~The board shall approve a~~ A chiropractic physician shall be approved to be a chiropractic physician preceptor if ~~the chiropractic physician meets~~ the following criteria are met:

- a. The chiropractic physician holds a current Iowa chiropractic license and has continuously held licensure in the United States for the previous five years prior to preceptorship;
- b. The chiropractic physician is currently fully credentialed by the sponsoring chiropractic college and approved by the board; and
- c. The chiropractic physician has not had any formal disciplinary action ~~or has not, within the past three years, been a party to a malpractice settlement or judgment which the board has determined to be disqualifying.~~

ARC 6027C**PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action****Proposing rule making related to specific criteria for continuing education
and providing an opportunity for public comment**

The Board of Athletic Training hereby proposes to amend Chapter 352, “Continuing Education for Athletic Trainers,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 272C.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 272C.2.

Purpose and Summary

This proposed rule making expands the specific criteria for continuing education by allowing athletic trainers to receive continuing education credit for additional activities, including attending workshops, authoring research, making professional presentations, and completing academic coursework. This proposed rule making also eliminates definitions for terms that do not appear in the chapter.

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 Division no later than 4:30 p.m. on November 23, 2021. Comments should be directed to:

Venus Vendoures Walsh
Professional Licensure Division
Iowa Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.242.6529
Fax: 515.281.3121
Email: venus.vendoures-walsh@idph.iowa.gov

Public Hearing

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

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

November 23, 2021
9 to 9:30 a.m.

Via video/conference call
Zoom Meeting ID: 889 9122 5024
Passcode: 757070
(US) +1.312.626.6799 (toll)
Access code: 757070

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. In an effort to ensure accuracy in memorializing a person's comments, a person may provide written comments in addition to or in lieu of oral comments at the hearing.

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rule 645—352.1(272C) as follows:

645—352.1(272C) Definitions. For the purpose of these rules, the following definitions shall apply:

~~“Active license” means the license is current and has not expired.~~

~~“Approved program/activity” means a continuing education program/activity meeting the standards set forth in these rules.~~

“Audit” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

“Board” means the board of athletic training created under Iowa Code chapter 147.

“BOC” means the Board of Certification or its successor organization.

“Continuing education” means planned, organized learning acts acquired during initial licensure designed to maintain, improve, or expand a licensee's knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

“Hour of continuing education” means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

~~“Inactive license” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.~~

~~“Independent study” means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and includes a posttest.~~

“License” means license to practice.

“Licensee” means any person licensed to practice as an athletic trainer in the state of Iowa.

ITEM 2. Amend subrule 352.3(2) as follows:

352.3(2) Specific criteria. Continuing education hours of credit shall be obtained by participating in through any of the following:

a. Completing a course provided by a BOC-approved provider of continuing education.

b. Attending workshops, conferences, or symposiums.

c. Authoring research, the results of which are published in a recognized professional publication.

A licensee shall receive five hours of credit per page.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

d. Presenting professional programs that meet the criteria of this chapter. Two hours of credit will be awarded for each hour of presentation. A course schedule or brochure must be maintained for audit. Presenting at a professional program does not include teaching class at an institution of higher learning at which the applicant is regularly and primarily employed, nor does it include presentations to the lay public. A licensee may be granted no more than ten hours of continuing education credit per biennium for presenting professional programs.

e. Completing academic courses that directly relate to the professional competency of the licensee. Official transcripts indicating successful completion of academic courses that apply to the field of athletic training must be maintained for audit. Continuing education credit equivalents are as follows:

1 academic semester hour = 15 continuing education hours

1 academic trimester hour = 12 continuing education hours

1 academic quarter hour = 10 continuing education hours

ARC 6017C**REAL ESTATE APPRAISER EXAMINING BOARD[193F]****Notice of Intended Action****Proposing rule making related to five-year review of rules
and providing an opportunity for public comment**

The Real Estate Appraiser Examining Board hereby proposes to amend Chapter 1, "Organization and Administration," Chapter 4, "Associate Real Property Appraiser," Chapter 5, "Certified Residential Real Property Appraiser," Chapter 6, "Certified General Real Property Appraiser," Chapter 8, "Investigations and Disciplinary Procedures," Chapter 9, "Renewal, Expiration and Reinstatement of Certificates and Registrations, Retired Status, and Inactive Status," Chapter 10, "Reciprocity," Chapter 11, "Continuing Education," and Chapter 12, "Fees," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code chapter 543D.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 543D.

Purpose and Summary

The proposed amendments implement what the Board considers to be medium- and low-priority changes based on a five-year rolling review of its rules. This is the third level of changes from the Board. The high- and medium-priority changes have already gone through the rule-making process and became effective on November 25, 2020, and September 1, 2021, respectively. These amendments will reduce conflict between the rules and statute, reduce conflict within the rules and better follow current internal practices.

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.

REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

Waivers

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

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 November 23, 2021. Comments should be directed to:

Brandy March
Real Estate Appraiser Examining Board
East Grand Office Park
200 East Grand Avenue, Suite 350
Des Moines, Iowa 50309
Phone: 515.725.9025
Email: brandy.march@iowa.gov

Public Hearing

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

November 29, 2021
11 a.m. to 12 noon

Small Conference Room, Third Floor
200 East 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 Board and advise of specific needs.

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend subrule 1.6(3) as follows:

1.6(3) Deadlines. Unless the context requires otherwise, such as is the case for timely and late renewal of a registration or certificate, any deadline for filing a document shall be extended to the next working day when the deadline falls on a Saturday, Sunday, or official state holiday.

ITEM 2. Amend subrule 1.18(2) as follows:

1.18(2) The board must adhere to the criteria established by the Appraiser Qualifications Board (AQB) of the Appraisal Foundation when registering associate appraisers or certifying certified appraisers under Iowa Code chapter 543D. To the extent that the rules conflict with the minimum requirements outlined in the current version of the AQB criteria, the minimum standards established in the criteria shall apply and these rules shall give way to the minimum requirements to comply with federal rule, law, or policy.

REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

ITEM 3. Amend rule 193F—1.20(543D) as follows:

193F—1.20(543D) Application and work product deadlines.

1.20(1) Summary of registration requirements for registration as an associate. The associate appraiser and supervisory appraiser provisions are more fully set out in 193F—Chapters 4 and 15, respectively. Before submitting an application for registration with the board, a person seeking registration as an associate appraiser must ~~complete~~ have completed a state and national criminal history check with the board within the past 180 days, have completed 75 hours of appraisal education within the past five years, take a supervisory/trainee appraiser course, and secure a qualified supervisory appraiser. An associate appraiser applicant who submits an application to the board office must have completed all ~~required qualifying education and the supervisory appraiser/associate coursework requirements~~ prior to submitting an application for registration.

1.20(2) Summary of certification requirements. As more fully set out in 193F—Chapters 3, 5, and 6, a person who is in the process of completing the education, experience, and examination required for certification as a certified appraiser may not submit an application for certification to the board until all prerequisites have been satisfactorily completed. The prerequisites include the following: qualifying college and core criteria appraiser education, qualifying examination, 1,500 hours of qualifying experience in a minimum of 12 months for residential appraisers or 3,000 hours of qualifying experience in a minimum of 18 months for general appraisers, ~~and work product review, and a state and national criminal history check consistent with Iowa Code section 543D.22.~~ Work product review requires numerous steps, as provided in 193F—5.6(543D) and 193F—6.6(543D). The work product review process includes the applicant's submission of a work product experience log to the board; the board's selection of three appraisals to review; communication of the selected appraisals to the applicant; the applicant's submission of the three appraisals and associated work files to the board in electronic and paper formats; review of the appraisals and work files by a reviewer retained by the board; the reviewer's submission of review reports to the board; a meeting between the applicant, the applicant's supervisor, and the board's work product review committee; a formal board vote at a board meeting; and communication of approval, denial, or deferral to the applicant. All of these steps must be completed before an applicant with approved work product can submit an application for certification to the board office. If the applicant's supervisor is unable to attend the work product review meeting, the applicant, or the applicant's supervisor, must submit the circumstances surrounding the absence to the executive officer so that it may be determined if the work product review meeting should be rescheduled.

ITEM 4. Amend rule 193F—1.21(543D) as follows:

193F—1.21(543D) National criminal history check. All applicants for any of the classifications listed in 193F—1.17(543D), including an applicant seeking to upgrade from a certified residential credential to a certified general credential, must satisfactorily complete a state and national criminal history check as a condition of registration as an associate real property appraiser, certification as a residential, or certification as or upgrade to a general real property appraiser. The applicant shall authorize release of the results of the criminal history check to the board. If the criminal history check was not completed within 180 calendar days prior to the date the license application is received by the board, the board may perform a new state and national criminal history check or may reject and return the application to the applicant. The background check fee is specified in 193F—Chapter 12.

ITEM 5. Amend subrule 4.4(1) as follows:

4.4(1) Associate classification. The associate appraiser classification is intended for those persons training to become certified appraisers and is not intended as a long-term method of performing appraisal services under the supervision of a certified appraiser in the absence of progress toward certification. As a result, the board may impose deadlines for achieving certification, or for satisfying certain prerequisites toward certification, ~~for those persons who apply to renew an associate appraiser registration more than two times.~~ Deadlines, if any, would be imposed as a condition for the third or subsequent renewal.

REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

ITEM 6. Amend rule 193F—4.5(543D) as follows:

193F—4.5(543D) Applying for certification as a certified residential appraiser or certified general appraiser. An associate appraiser may apply for certification as a certified residential real property appraiser by satisfying the requirements of 193F—Chapter 5, or as a certified general real property appraiser by satisfying the requirements of 193F—Chapter 6. The requirements for each type of certification include a state and national criminal history check consistent with Iowa Code section 543D.22; education, examination, and; experience, which includes work product review; and examination.

ITEM 7. Amend subrules 5.2(1) and 5.2(2) as follows:

5.2(1) Collegiate education. There are five options for the collegiate education aspect of the requirements toward certification as a certified residential real property appraiser as specified in the AQB criteria. An applicant must meet at least one of the five options identified in paragraphs 5.2(1)“a” through 5.2(1)“e,” below, in order to be eligible for certification as a residential real property appraiser.

a.—~~An applicant holds a bachelor’s degree in any field of study from an accredited college or university.~~

b.—~~An applicant holds an associate’s degree in a field of study from an accredited college, junior college, community college, or university that relates to:~~

- ~~(1) Business administration;~~
- ~~(2) Accounting;~~
- ~~(3) Finance;~~
- ~~(4) Economics; or~~
- ~~(5) Real estate.~~

c.—~~Successful completion of 30 semester hours of college-level courses from an accredited college, junior college, community college, or university that cover each of the following specific areas and hours:~~

- ~~(1) English composition (3 hours);~~
- ~~(2) Microeconomics (3 hours);~~
- ~~(3) Macroeconomics (3 hours);~~
- ~~(4) Finance (3 hours);~~
- ~~(5) Algebra, geometry, or higher math (3 hours);~~
- ~~(6) Statistics (3 hours);~~
- ~~(7) Computer science (3 hours);~~
- ~~(8) Business law or real estate law (3 hours);~~
- ~~(9) Two electives in any of the above topics or in accounting, geography, agriculture, economics, business management, or real estate (3 hours each).~~

d.—~~Successful completion of at least 30 semester hours of College-Level Examination Program® (CLEP) examinations that cover each of the following specific areas and hours:~~

- ~~(1) College algebra (3 semester hours);~~
- ~~(2) College composition (6 semester hours);~~
- ~~(3) College composition modular (3 semester hours);~~
- ~~(4) College mathematics (6 semester hours);~~
- ~~(5) Principles of macroeconomics (3 semester hours);~~
- ~~(6) Principles of microeconomics (3 semester hours);~~
- ~~(7) Introductory business law (3 semester hours); and~~
- ~~(8) Information systems (3 semester hours).~~

e.—~~Any combination of paragraphs 5.2(1)“c” and 5.2(1)“d,” above, that ensures coverage of all of the topics and hours identified in paragraph 5.2(1)“c.” For purposes of determining whether coverage of the topics and hours identified in paragraph 5.2(1)“c” has occurred:~~

- ~~(1) The college algebra CLEP examination may be considered for satisfying the algebra, geometry, or higher math requirement of paragraph 5.2(1)“c.”~~
- ~~(2) The college composition CLEP examination may be considered for satisfying the English composition requirement of paragraph 5.2(1)“c.”~~

REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

~~(3) The college composition modular CLEP examination may be considered for satisfying the English composition requirement of paragraph 5.2(1)“e.”~~

~~(4) The college mathematics CLEP examination may be considered for satisfying the algebra, geometry, or higher math requirement of paragraph 5.2(1)“e.”~~

~~(5) The principles of macroeconomics CLEP examination may be considered for satisfying the macroeconomics or finance requirement of paragraph 5.2(1)“e.”~~

~~(6) The principles of microeconomics CLEP examination may be considered for satisfying the microeconomics or finance requirement of paragraph 5.2(1)“e.”~~

~~(7) The introductory business law CLEP examination may be considered for satisfying the business law or real estate law requirement of paragraph 5.2(1)“e.”~~

~~(8) The information systems CLEP examination may be considered for satisfying the computer science requirement of paragraph 5.2(1)“e.”~~

5.2(2) Core criteria. In addition to the formal education in subrule 5.2(1), an applicant must ~~complete 200 creditable class hours~~ meet the current AQB criteria requirements before taking the AQB-approved examination. All courses must be AQB-approved current core criteria to be considered creditable. ~~The required courses and 200 hours consist of the following:~~ The creditable class hours under the general certification AQB-approved current core criteria courses satisfy the residential requirement.

a. Basic appraisal principles	30 hours
b. Basic appraisal procedures	30 hours
c. The 15-hour USPAP course or equivalent	15 hours
d. Residential market analysis and highest and best use	15 hours
e. Residential appraiser site valuation and cost approach	15 hours
f. Residential sales comparison and income approaches	30 hours
g. Residential report writing and case studies	15 hours
h. Statistics, modeling and finance	15 hours
i. Advanced residential applications and case studies	15 hours
j. Appraisal subject matter electives	20 hours

ITEM 8. Amend rule 193F—5.3(543D) as follows:

193F—5.3(543D) Examination. The prerequisite for taking the AQB-approved examination is collegiate education, experience, work product review and completion of 200 all creditable course hours as specified in subrule 5.2(2). The 200 creditable course hours, collegiate education, and all experience must be completed as specified in subrules 5.2(1) and 5.2(2) and ~~rule rules 193F—5.4(543D) and 193F—5.6(543D)~~ prior to the examination. ~~For 5.2(2)“e,” equivalency~~ Equivalency shall be determined through the AQB Course Approval Program or by an alternate method established by the AQB. USPAP qualifying education shall be awarded only when the class is instructed by at least one AQB-certified USPAP instructor who holds a state-issued certified residential or certified general appraiser credential in active status and good standing.

5.3(1) In order to qualify to sit for the certified residential real property appraiser examination, the applicant must complete the board’s application form and provide copies of documentation of completion of all courses claimed that qualify the applicant to sit for the examination.

a. No change.

b. The core criteria, collegiate education, ~~and experience, and work product review~~ must be completed and the documentation submitted to the board at the time of application to sit for the examination.

5.3(2) and 5.3(3) No change.

5.3(4) An applicant must supply a true and accurate copy of the original examination scores when applying for certification. Copies of the scores will not be accepted.

5.3(5) No change.

REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

ITEM 9. Amend subrule 5.6(1) as follows:

5.6(1) An applicant shall submit a complete appraisal log at the time of application for examination and work product review. ~~The board will select three appraisals that~~ Three appraisal reports will be selected to demonstrate a diversity of experience and approaches to value over various time frames for work product review and request that the. The applicant shall submit, both electronically and on paper, one copy of each report and work file for each of the selected appraisals along with the appropriate form and fee. The work product submission shall not be redacted by the applicant; however, the applicant may request the reports remain confidential as specified in subrule 5.6(2). The fee for work product review of the appraisals is provided in 193F—Chapter 12. ~~The board may select the appraisals~~ Appraisals may be selected at random from the entire log or within certain types of appraisals. The board reserves the right to request one or more additional appraisals if those submitted by the applicant raise issues concerning the applicant's competency or compliance with applicable appraisal standards or the degree to which the submitted appraisals are representative of the applicant's work product. Such additional appraisals may be selected at random from the applicant's log or may be selected specifically to provide an example of the applicant's work product regarding a particular type of appraisal.

ITEM 10. Amend subrule 5.6(8) as follows:

5.6(8) If probable cause exists, the board may open a disciplinary investigation ~~against a certificate holder~~ based on the work product review of an applicant. A potential disciplinary action could arise, for example, if the applicant is a certified residential real property appraiser seeking an upgrade to a certified general real property appraiser, or where the applicant is uncertified and is working under the supervision of a certified real property appraiser who cosigned the appraisal report.

ITEM 11. Amend rule 193F—6.8(543D) as follows:

193F—6.8(543D) Upgrade from a certified residential real property appraiser to a certified general real property appraiser. To upgrade from a certified residential real property appraiser to a certified general real property appraiser, an applicant must complete the following additional education, examination, supervision, and experience requirements, which include work product review and a state and national criminal history check as provided in Iowa Code section 543D.22. For all intents and purposes, a certified residential real property appraiser seeking to upgrade to a certified general status will be considered an associate appraiser as it relates to differences between the scope of practice of the two licensure categories, and the upgrade process will generally follow the same registration requirements, supervisory identification and maintenance requirements, and processes and procedures generally applicable to associate appraisers set forth in 193F—Chapter 4.

6.8(1) Education.

a. No change.

b. *Core criteria.* In addition to the formal education and core criteria educational requirements originally required to obtain a certified residential credential, an applicant must ~~complete the following additional 100 creditable core criteria class hours~~ meet the current AQB requirements before taking the AQB-approved examination. ~~All courses must be AQB-approved under current core criteria to be considered creditable. The required courses and 100 hours consist of the following:~~

- | | |
|---|---------------------|
| (1) General appraiser market analysis and highest and best use | 15 hours |
| (2) General appraiser sales comparison approach | 15 hours |
| (3) General appraiser site valuation and cost approach | 15 hours |
| (4) General appraiser income approach | 45 hours |
| (5) General appraiser report writing and case studies | 10 hours |

6.8(2) to 6.8(5) No change.

ITEM 12. Amend subrule 6.2(2) as follows:

6.2(2) Core criteria. In addition to the formal education in 6.2(1), an applicant must ~~complete 300 creditable class hours~~ meet the current AQB requirements before taking the AQB-approved examination. All courses must be AQB-approved under current core criteria to be considered creditable. ~~The required courses and 300 hours consist of the following:~~

REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

a.	Basic appraisal principles	30 hours
b.	Basic appraisal procedures	30 hours
c.	The 15-hour USPAP course or equivalent	15 hours
d.	General appraiser market analysis and highest and best use	30 hours
e.	General appraiser site valuation and cost approach	30 hours
f.	General appraiser sales comparison approach	30 hours
g.	General appraiser income approach	60 hours
h.	General appraiser report writing and case studies	30 hours
i.	Statistics, modeling and finance	15 hours
j.	Appraisal subject matter electives	30 hours

ITEM 13. Amend rule 193F—6.3(543D) as follows:

193F—6.3(543D) Examination. The prerequisite for taking the AQB-approved examination is collegiate education, experience, work product review and completion of 300 all creditable course hours as specified in subrule 6.2(2). The ~~300~~ core criteria hours, collegiate education, and all experience must be completed as specified in subrules 6.2(1) and 6.2(2) and ~~rule rules~~ rules 193F—6.4(543D) and 193F—6.6(543D) prior to the examination. ~~For 6.2(2)“e,” equivalency~~ Equivalency shall be determined through the AQB Course Approval Program or by an alternate method established by the AQB. USPAP qualifying education shall be awarded only when the class is instructed by at least one AQB-certified USPAP instructor who holds a state-issued certified residential or certified general appraiser credential in active status and good standing.

6.3(1) In order to qualify to sit for the certified general real property appraiser examination, the applicant must complete the board’s application form and provide copies of documentation of completion of all courses claimed that qualify the applicant to sit for the examination.

a. No change.

b. The core criteria, collegiate education, ~~and experience,~~ and work product review must be completed and documentation submitted to the board at the time of application to sit for the examination.

6.3(2) and 6.3(3) No change.

6.3(4) An applicant must supply a true and accurate copy of the original examination scores when applying for certification. Copies of the scores will not be accepted.

6.3(5) No change.

ITEM 14. Amend subrule 6.6(1) as follows:

6.6(1) An applicant shall submit a complete appraisal log at the time of application for examination and work product review. ~~The board will then select three appraisals that~~ Three appraisal reports will be selected to demonstrate a diversity of experience and approaches to value over various time frames for work product review and request that the. The applicant shall submit, both electronically and on paper, one copy of each report and work file for each of the selected appraisals along with the appropriate form and fee. The work product submission shall not be redacted by the applicant; however, the applicant may request the reports remain confidential as specified in subrule 6.6(2). The fee for work product review of the appraisals is provided in 193F—Chapter 12. ~~The board may select the appraisals~~ Appraisals may be selected at random from the entire log or within certain types of appraisals. The board reserves the right to request one or more additional appraisals if those submitted by the applicant raise issues concerning the applicant’s competency or compliance with applicable appraisal standards or the degree to which the submitted appraisals are representative of the applicant’s work product. Such additional appraisals may be selected at random from the applicant’s log or may be selected specifically to provide an example of the applicant’s work product regarding a particular type of appraisal.

ITEM 15. Amend subrule 6.6(8) as follows:

6.6(8) If probable cause exists, the board may open a disciplinary investigation ~~against a certificate holder~~ based on the work product review of an applicant. A potential disciplinary action could arise, for example, if the applicant is a certified residential real property appraiser seeking an upgrade to a certified

REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

general real property appraiser, or where the applicant is uncertified and is working under the supervision of a certified real property appraiser who cosigned the appraisal report.

ITEM 16. Amend rule 193F—8.3(272C,543D) as follows:

193F—8.3(272C,543D) Sources of information. Without limitation, the following nonexclusive list of information sources may form the basis for the initiation of a disciplinary investigation or proceeding:

1. to 3. No change.
4. Complaints, including anonymous complaints, filed with the board by any member of the public.
5. to 7. No change.

ITEM 17. Amend paragraph **8.5(1)“a”** as follows:

a. The full name, address, and telephone number of the complainant (person complaining), unless the complaint is submitted anonymously.

ITEM 18. Amend subrule 8.5(5) as follows:

8.5(5) Initial complaint screening. All written complaints received by the board shall be initially screened by the board’s executive officer to determine whether the allegations of the complaint fall within the board’s investigatory jurisdiction and whether the facts presented, if true, would constitute a basis for disciplinary action against a licensee. Complaints which are clearly outside the board’s jurisdiction, which clearly do not allege facts upon which disciplinary action would be based, or which are frivolous shall be referred by the board’s executive officer to the board for closure at the next scheduled board meeting. All other complaints shall be investigated and referred by the board’s executive officer to the board’s disciplinary committee for committee review as described in subrule 8.8(1).

ITEM 19. Amend rule 193F—8.8(17A,272C,543D) as follows:

193F—8.8(17A,272C,543D) Investigation procedures.

8.8(1) No change.

8.8(2) Committee screening *Screening of complaints.* ~~Upon the referral of a complaint from the board’s executive officer or from the full board, the committee shall determine whether the complaint presents facts which, if true, suggest that a licensee may have violated a law or rule enforced by the board. All complaints presented to the board shall be screened, evaluated and, where appropriate, investigated.~~ If the committee concludes that the complaint does not present facts which suggest such a violation or that the complaint does not otherwise constitute an appropriate basis for disciplinary action, the committee shall refer the complaint to the full board with the recommendation that the complaint be closed with no further action. If the committee determines that the complaint does present a credible basis for disciplinary action, the committee may either immediately refer the complaint to the full board recommending that a disciplinary proceeding be commenced or initiate a disciplinary investigation.

8.8(3) Committee procedures. ~~If the committee determines that additional information is necessary or desirable to evaluate the merits of a complaint, the committee may assign an investigator or expert consultant, appoint a peer review committee, provide the licensee~~ An expert investigator, or expert consultant, may be assigned to evaluate the merits of a complaint. In addition, the licensee may be afforded an opportunity to appear before the disciplinary committee for an informal discussion as described in rule 193F—8.9(17A,272C,543D) or request board staff to conduct further investigation. Upon completion of an investigation, the investigator, expert consultant, peer review committee or board staff shall present a report to the committee. The committee shall review the report and determine what further action is necessary. The committee may:

a. to d. No change.

8.8(4) No change.

ITEM 20. Amend rule 193F—8.10(272C,543D) as follows:

193F—8.10(272C,543D) Peer review committee (PRC). A peer review committee may be appointed by the board to investigate a complaint. The committee may consist of one or more certified general

REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

or certified residential real property appraisers ~~registered to practice in Iowa~~. The board may appoint a single peer review consultant to perform the functions of a PRC when, in the board's opinion, appointing a committee with more members would be impractical, unnecessary or undesirable given the nature of the expertise required, the need for prompt action or the circumstances of the complaint. An individual shall be ineligible as a PRC member in accordance with the standard for disqualification found in rule 193F—20.14(17A).

8.10(1) to 8.10(3) No change.

8.10(4) Reports Review. Each PRC shall submit a written ~~report~~ review to the board within a reasonable period of time.

8.10(5) Components of the report review. The ~~report~~ review shall include:

~~a. Statement of the charge to the PRC;~~

~~b. Description of the actions taken by the PRC in its investigation, including but not limited to appraisal review(s) and interviews with the respondent or complainant;~~

~~c. Summary~~ a summary of the PRC's findings, including the PRC's opinion as to whether a violation occurred, citation of the specific USPAP violation(s), citation of the Iowa Code section(s) and Iowa Administrative Code rule(s) violated, and the PRC's opinion of the seriousness of the violation; and a recommendation to the board.

~~d. Recommendation.~~

8.10(6) Recommended action Recommendation. The PRC report shall recommend one of the following:

~~a. to d.~~ No change.

If the PRC recommends further investigation or disciplinary proceedings, supporting information must be submitted to the board including citation of the specific USPAP violation(s), Iowa Code section(s) and Iowa Administrative Code rule(s) violated.

8.10(7) to 8.10(9) No change.

ITEM 21. Amend rule 193F—8.14(543D) as follows:

193F—8.14(543D) Decisions. The board shall make findings of fact and conclusions of law, and set forth the board's decision, order, or both in the case. The board's decision may include, without limitation, any of the following outcomes, either individually or in combination:

1. to 12. No change.

13. Prohibit a licensee from acting as an instructor;

~~13.~~ 14. Impose any other form of discipline authorized by a provision of law that the board, in its discretion, believes is warranted under the circumstances of the case.

ITEM 22. Amend rule 193F—8.15(272C,543D) as follows:

193F—8.15(272C,543D) Mitigating and aggravating factors. Factors the board may consider when determining whether to impose discipline and what type of discipline to impose include but are not limited to:

8.15(1) No change.

8.15(2) Nature of ~~violation~~ violations, not limited to:

~~a. to i.~~ No change.

8.15(3) Interest of the public, not limited to:

~~a. to e.~~ No change.

ITEM 23. Adopt the following **new** subrule 8.17(4):

8.17(4) A state and national criminal history check may be performed on any applicant applying to reinstate registration or credential consistent with Iowa Code section 543D.22.

ITEM 24. Amend subrule 9.1(3) as follows:

9.1(3) An application to renew a certificate or registration shall be submitted on ~~a form obtained from the board office or on the board's website~~ forms prescribed by the board. ~~Applicants may renew electronically through a board-established electronic process, as available.~~

REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

ITEM 25. Amend subrule 9.3(5) as follows:

9.3(5) Resubmission of rejected applications. The board shall promptly notify an applicant of the basis for rejecting an insufficient renewal application, ~~and shall return or refund any fees received.~~ In the event the renewal application is not resubmitted, with the deficiencies corrected, the board may return any fees received. Applicants for certificate or registration renewal may remedy the insufficiency and resubmit applications that were rejected as insufficient. Resubmitted applications shall be deemed received when personally delivered to the board office, on the date of electronic submission or, if mailed, the date postmarked, but not the date metered. Resubmitted applications to renew that are not timely received by the board shall be treated as applications to reinstate, as provided in rule 193F—9.4(272C,543D).

ITEM 26. Amend subrule 9.4(5) as follows:

9.4(5) Reinstatement. The board may reinstate a lapsed certificate or registration upon the applicant's submission of an application to reinstate and completion of all of the following:

a. to c. No change.

d. Completing a state and national criminal history check consistent with Iowa Code section 543D.22.

~~*e.*~~ *e.* Providing evidence of completed continuing education outlined in rule 193F—11.2(272C,543D), as modified for associate appraisers in subrule 9.4(6), if the licensee wishes to reinstate to active status; and

e.f. Providing a written statement outlining the professional activities of the applicant in the state of Iowa during the period in which the applicant's certificate or registration was lapsed. The statement shall describe all appraisal services performed, with or without the use of the titles described in Iowa Code section 543D.15, for all appraisal assignments that are required by federal or state law, rule, or policy to be performed by a certified real estate appraiser.

ITEM 27. Amend rule 193F—9.7(272C,543D) as follows:

193F—9.7(272C,543D) Property of the board. Every certificate or associate registration issued by the board shall, while it remains in the possession of the holder, be preserved by the holder but shall, nevertheless, always remain the property of the board. ~~In the event that a certificate or associate registration is revoked or suspended, is not renewed, is registered in inactive status, or is placed in retired status, it shall, on demand, be delivered by the holder to the board.~~ The board shall generally not request return of a certificate or associate registration if it has not been revoked, suspended or voluntarily surrendered in a disciplinary action, but may do so if the board reasonably determines that grounds exist to believe that a person holding a lapsed, retired, or inactive certificate or associate registration has engaged in a practice for which active certification or registration is required.

ITEM 28. Amend rule 193F—10.2(543D) as follows:

193F—10.2(543D) Nonresident temporary Temporary practice permit.

10.2(1) The board will recognize, on a temporary basis, the certification of an appraiser issued by another state for a period of six months, unless the applicant requests, and is approved for, a one-time extension, ~~of which the one-time extension will not exceed six months, prior to the expiration of the original issued temporary practice permit.~~ An extension request must be received prior to the expiration date of the issuance of the temporary practice permit. An extension may be granted for up to six months past the original expiration date so long as the applicant is still eligible for a temporary practice permit.

10.2(2) The appraiser must register with the board and identify the property(ies) to be appraised and the name and address of the client. The appraiser must demonstrate good standing to be considered for a temporary practice permit. An appraiser who is listed in good standing on the National Registry of the Appraisal Subcommittee generally satisfies the requirement that good standing be demonstrated and ~~does~~ may not need to submit additional documentation. An appraiser who is not listed in good standing on the National Registry of the Appraisal Subcommittee must supply an official letter of good standing issued by the licensing board of the appraiser's resident state and bearing its seal. An appraiser may

REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

verify the appraiser's status on the National Registry of the Appraisal Subcommittee by accessing the ASC's website. Registration shall be on a form provided by the board and submitted to the board office prior to the performance of the appraisal. The appraiser shall pay the appropriate fee as required in rule 193F—12.1(543D).

10.2(3) and **10.2(4)** No change.

10.2(5) The board may deny an application for a temporary practice permit if the applicant has been disciplined in Iowa or another jurisdiction, a disciplinary investigation or proceeding is pending in Iowa or another jurisdiction, the person has been convicted of a crime that is a ground for discipline in Iowa or another jurisdiction, or it appears the applicant is applying for a temporary permit because the applicant would not qualify to renew or reinstate in active status in Iowa or another jurisdiction and the application for a temporary permit is made primarily to compromise compliance with Iowa laws and rules.

10.2(6) and **10.2(7)** No change.

10.2(8) The board must receive and approve an application for a temporary practice permit before the applicant is eligible to practice in Iowa under a temporary practice permit. Applicants shall use the form prescribed by the board. The board shall grant or deny all applications for temporary practice permits as quickly as reasonably feasible and no later than five days of receipt of a completed application. Applicants shall use the form prescribed by the board. Applicants disclosing discipline or criminal convictions shall attach documentation from which the board can determine if the discipline or criminal history would be a ground to deny the application. Falsification of information or failure to disclose material information shall be a ground to deny the application and may form the basis to deny any subsequent application or an application to reinstate a lapsed or inactive Iowa certificate.

ITEM 29. Amend rule **193F—11.1(272C,543D)**, definition of "Credit hour," as follows:

"*Credit hour*" means the value assigned by the board, or the AQB, to a continuing or qualifying education program.

ITEM 30. Adopt the following new definition of "Qualifying education" in rule **193F—11.1(272C,543D)**:

"*Qualifying education*" means education that is obtained by a person seeking certification as a real property appraiser prior to initial certification or registration where the minimum length of the education offering is at least 15 hours and the individual successfully completes a proctored, closed-book final examination pertinent to that educational offering.

ITEM 31. Amend subrule 11.2(4) as follows:

11.2(4) An applicant seeking to renew an initial certificate or registration issued less than 185 days prior to renewal is not required to report any continuing education. An applicant seeking to renew an initial certificate or registration issued for 185 days to 365 days prior to renewal must demonstrate completion of at least 14 credit hours, ~~including 7 credit hours of the most recent~~ which must include the National USPAP Update course or its AQB equivalent. An applicant seeking to renew an initial certificate or registration issued 365 days prior to renewal or more must demonstrate completion of at least 28 credit hours, including 7 credit hours of the most recent National USPAP Update.

ITEM 32. Adopt the following new subrule 11.2(10):

11.2(10) A person certified or registered to practice real estate appraising in Iowa who completes an education course approved by both the board and another appraiser regulatory body, for which the approved hours vary, will only be allowed to claim the hours approved by the board to meet the requirements of renewal of the person's associate registration or certified credential in Iowa. A person certified or registered to practice real estate appraising in Iowa who completes an educational course not approved in Iowa, but approved by either the AQB or by another appraiser regulatory body, may claim the hours awarded by either the AQB or the appraiser regulatory body of the other jurisdiction.

ITEM 33. Amend subrules 11.4(4) and 11.4(5) as follows:

11.4(4) Continuing education credit will be granted only for whole hours, with a minimum of 50 minutes constituting one hour. For example, ~~400~~ 150 minutes of continuous instruction would count as

REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

~~two~~ three credit hours; however, more than ~~50~~ 100 minutes but less than ~~100~~ 150 minutes of continuous instruction would only count as ~~one hour~~ two hours.

11.4(5) Continuing education credit may be approved for university or college courses, when an official transcript is provided, in qualifying topics according to the following formula: Each semester hour of credit shall equal 15 credit hours and each quarter hour of credit shall equal 10 credit hours.

ITEM 34. Rescind and reserve subrule **11.5(2)**.

ITEM 35. Amend subrule 11.5(6) as follows:

11.5(6) Only AQB-certified USPAP instructors, listed on the website of the Appraisal Foundation may teach the national USPAP courses ~~including the 15-hour tested course and the 7-hour continuing education course~~, or its AQB-approved equivalent.

ITEM 36. Adopt the following **new** subrule 11.5(21):

11.5(21) Providers must notify the board within 30 days when there is a change in the provider's primary contact, name, business address, or any other change which may affect the provider's tax identification number or bond requirements with the Iowa college aid commission.

ITEM 37. Amend rule 193F—11.7(272C,543D) as follows:

193F—11.7(272C,543D) Applications for approval of programs. Applications for approval of programs must be submitted on forms prescribed by the board. All non-AQB courses are approved for 24 months, including the month of approval. ~~AQB-approved courses are approved through the AQB expiration date, which may be longer than 24 months from the date of approval.~~ Programs approved for distance education or by the AQB may be approved by the board. Board approval of a program will only be valid for the shortest period of time such program is approved by either organization.

11.7(1) and **11.7(2)** No change.

11.7(3) All required forms and attachments must be submitted for approval at least 30 days prior to the first offering of each program or, if renewing, within 30 days of the course expiration date. The board will approve or deny each program, in whole or part, within 15 days of the date the board receives a fully completed application. Upon approval of an application for course offering, the board will specify the number of credit hours allowed. Payments for course program applications must be made within 30 calendar days of the date the application is approved by the board or the application approval may be reversed.

11.7(4) Application forms for non-AQB CAP courses will request information including, but not limited to, the following:

a. to *e.* No change.

f. Copies of all instructor and student program materials or, in the case of a one-time course offering, a statement that attests all instructor and student materials will be submitted to the board within ten calendar days of the course offering;

g. to *k.* No change.

11.7(5) and **11.7(6)** No change.

ITEM 38. Amend rule 193F—11.11(272C,543D) as follows:

193F—11.11(272C,543D) Appraiser request for postapproval of continuing education program. An appraiser seeking credit for attendance and participation in a program that was not conducted by an approved provider or approved by the licensing authority in another state or otherwise approved by the board shall submit to the board a request for credit for the program. Within 15 days after receipt of the request, the board shall advise the requester in writing whether the program is approved and the number of hours allowed. Appraisers not complying with the requirement of this rule may be denied credit for the program. Application for postapproval of a continuing education program shall include the following fee and information:

1. Application fee of \$25;

2. School, firm, organization or person conducting the program;

REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

3. Location of the program;
4. Title of program and description of program;
5. Credit hours requested for approval;
6. ~~Dates~~ Date(s) of program;
7. Student and instructor materials;
- ~~7.~~ 8. Principal instructor(s); and
- ~~8.~~ 9. Verification of attendance.

ITEM 39. Amend rule 193F—12.1(543D) as follows:

193F—12.1(543D) Required fees. The following fee schedule applies to certified general, certified residential and associate appraisers.

Initial examination application fee	\$150
Examination fee (and reexamination fee) <u>(to be paid to the examination provider)</u>	\$145 <u>Current provider rate</u>
Biennial registration fee for active status (initial, reciprocal, renewal):	
Certified real property appraiser > one year	\$200
Certified real property appraiser < one year	\$100
Associate real property appraiser > one year	\$200
Associate real property appraiser < one year	\$100
Biennial registration fee for inactive status (initial, reciprocal, renewal):	
Certified real property appraiser	\$100
Associate real property appraiser	\$50
Temporary practice permit fee (each request)	\$100
Fee to reinstate a lapsed or retired license (lapsed or retired to active status)	\$150 (plus the registration fee)
Fee to reactivate an inactive or retired license (inactive or retired to active status)	\$50 (plus the registration fee)
Formal wall certificate	\$25
Work product review fees:	
Original submission, certified residential	\$300
Original submission, certified general	\$650
Additional residential reports as requested by the board	\$150 per report
Additional nonresidential reports as requested by the board	\$250 per report
Voluntary submission of residential reports for review	\$150 per report
Voluntary submission of nonresidential reports for review	\$250 per report
Course application fee (non-AQB-approved courses and secondary providers)	\$50
Pre-/post-course application fee	\$25
Background check	\$51

REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

ASC National Registry fee > one year, separate from registration fee	\$80
ASC National Registry fee < one year, separate from registration fee	\$40
Fee to add supervisory appraiser	\$25
Fee to add course instructor	\$10
Waiver to administrative rules	\$25
Late renewal fee (associate, certified)	\$50

ARC 6014C**TRANSPORTATION DEPARTMENT[761]****Notice of Intended Action****Proposing rule making related to warning lights on non-State-owned vehicles or equipment used in road work zones and providing an opportunity for public comment**

The Transportation Department hereby proposes to adopt new Chapter 135, "Warning Lights on Vehicles or Equipment Not Owned and Operated by the Department When Used in Road Work Zones," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 307.12 and section 321.423(7)"a" as amended by 2021 Iowa Acts, House File 654, section 5.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 321.423(7)"a" as amended by 2021 Iowa Acts, House File 654, section 5.

Purpose and Summary

This proposed rule making adopts new Chapter 135 in accordance with 2021 Iowa Acts, House File 654, section 5. This proposed new chapter allows non-State-owned vehicles and equipment to display flashing white lights within road work zones. The white lights are needed to help reduce the number of crashes involving construction vehicles and equipment on or adjacent to the roadway. The white lights will make non-State-owned vehicles and equipment more visible to other road workers and roadway users.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa beyond any impact anticipated by the legislation.

Jobs Impact

After analysis and review of this rule making, there is a potential positive impact on jobs because of the legislation. Allowing non-State-owned vehicles and equipment to display flashing lights within road work zones will potentially increase the safety of road workers.

TRANSPORTATION DEPARTMENT[761](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 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on November 23, 2021. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Government and Community Relations
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

If requested, a public hearing to hear oral presentations will be held on November 29, 2021, via conference call at 10 a.m. Persons who wish to participate in the conference call should contact Tracy George before 4:30 p.m. on November 23, 2021, to facilitate an orderly hearing. A conference call number will be provided to participants prior to the hearing.

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

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

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Adopt the following **new** 761—Chapter 135:

CHAPTER 135

WARNING LIGHTS ON VEHICLES OR EQUIPMENT NOT OWNED AND OPERATED BY THE
DEPARTMENT WHEN USED IN ROAD WORK ZONES

761—135.1(321) Warning lights on vehicles or equipment in road work zones.

135.1(1) Purpose. The purpose of this rule is to establish the eligibility of vehicles or equipment that are not owned or operated by the department to use flashing white lights in accordance with Iowa Code section 321.423(7)“a” as amended by 2021 Iowa Acts, House File 654, section 5.

TRANSPORTATION DEPARTMENT[761](cont'd)

135.1(2) Eligibility. A vehicle or other equipment that is not owned or operated by the department may use a flashing white light while the vehicle or other equipment is being used in road work zones on state or local highways.

135.1(3) Information. Information regarding this rule is available from the Construction and Materials Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; or by telephone at (515)239-1352.

This rule is intended to implement Iowa Code section 321.423(7)“a” as amended by 2021 Iowa Acts, House File 654, section 5.

ARC 6016C

UTILITIES DIVISION[199]

Notice of Intended Action

Proposing rule making related to federally registered planning authority transmission projects and providing an opportunity for public comment

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

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 478.16.

State or Federal Law Implemented

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

Purpose and Summary

The Board is conducting this rule making to implement the requirements of Iowa Code section 478.16. The Board is proposing this rule making to establish the process for when and how an incumbent electric transmission owner notifies the Board of the owner’s decision to construct an electric transmission line approved by a federally registered planning authority. The Board is proposing a rule to describe the process should two or more incumbent electric transmission owners seek to build the approved line. The Board’s proposed rule also establishes the process by which an incumbent electric transmission owner notifies the Board of the owner’s intent not to construct the approved electric transmission line. Lastly, the Board is proposing to establish the process for filing reports with the Board regarding the cost of the project consistent with Iowa Code section 478.16(4).

The Board issued an order on August 9, 2021, commencing rule making. The order is available on the Board’s electronic filing system, efs.iowa.gov, under Docket No. RMU-2021-1114.

Fiscal Impact

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

Jobs Impact

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

Waivers

No waiver provision is included in the proposed amendments because the Board has a general waiver provision in rule 199—1.3(17A,474,476) that provides procedures for requesting a waiver of the rules in Chapter 11.

UTILITIES DIVISION[199](cont'd)

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on November 23, 2021. Comments should be directed to:

IT Support
Iowa Utilities Board
Phone: 515.725.7300
Email: ITSupport@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 7, 2021
10 a.m. to 12 noon

Board Hearing Room
1375 East Court Avenue
Des Moines, Iowa

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

Persons who do not wish to attend in person may attend via webinar. Information about attending the oral presentation via webinar will be provided on the Utilities Board website, iub.iowa.gov, on the Hearing and Meeting Calendar webpage.

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.

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Adopt the following **new** rule 199—11.14(478):

199—11.14(478) Federally registered planning authority transmission projects.

11.14(1) Purpose. The purpose of this rule is to implement the requirements of Iowa Code section 478.16.

11.14(2) Definitions. For the administration and interpretation of this rule, the following words and terms, when used in this rule, shall have the following meanings:

“*Electric transmission line*” means a high-voltage electric transmission line with a capacity of 100 kilovolts or more and any associated electric transmission facility, including any substation or other equipment.

“*Electric transmission owner*” means an individual or entity who, as of July 1, 2020, owns and maintains an electric transmission line that is required for rate-regulated electric utilities, municipal electric utilities, and rural electric cooperatives in this state to provide electric service to the public for compensation.

“*Federally registered planning authority*” means any independent system operator or regional transmission organization approved by the Federal Energy Regulatory Commission.

“*Incumbent electric transmission owner*” means any of the following:

UTILITIES DIVISION[199](cont'd)

1. A public utility or a municipally owned utility that owns, operates, and maintains an electric transmission line in this state.

2. An electric cooperative corporation or association or municipally owned utility that owns an electric transmission facility in this state and has turned over the functional control of such facility to a federally approved authority.

3. An electric transmission owner.

11.14(3) Notification of decision of incumbent transmission owner.

a. Upon approval of an electric transmission line, in a federally registered planning authority transmission plan, which connects to a transmission facility owned by an incumbent transmission line owner, the incumbent electric transmission owner shall notify the board in writing within 90 days of its intent to construct, own, and maintain the approved electric transmission line.

b. If the incumbent electric transmission owner does not intend to construct, own, or maintain an electric transmission line approved in a federally registered planning authority transmission plan, the incumbent electric transmission owner shall notify the board in writing within 90 days of the date the federally registered planning authority approves the transmission line.

c. If an electric transmission line approved by a federally registered planning authority connects to two or more incumbent electric transmission owners' facilities, all incumbent electric transmission owners shall notify the board within 90 days of their intent to construct, own, and maintain the approved electric transmission line individually and equally.

d. In the event where two or more incumbent electric transmission owners may construct an electric transmission line approved by a federally registered planning authority but one incumbent electric transmission owner notifies the board of its intent not to construct, own, or maintain the approved electric transmission line, the other incumbent electric transmission owner or owners shall notify the board of their intent to construct the entire project within 90 days of federally registered planning authority's approval of the transmission line.

11.14(4) Effect of incumbent's decision to decline to construct. Upon receipt by the board of notice of the incumbent electric transmission owner's intent not to construct, operate, or maintain the electric transmission line approved by a federally registered planning authority, or the failure of the incumbent electric transmission owner to provide such notice, the board may issue a franchise to another person to construct the electric transmission line approved by a federally registered planning authority subject to the requirements of Iowa Code chapter 478.

11.14(5) Reports to the board.

a. Within 30 days of the issuance of a franchise, the electric transmission owner who is constructing, owning, and maintaining the electric transmission line approved by a federally registered planning authority shall file with the board the estimated cost to construct the electric transmission line.

b. Until construction of the electric transmission line approved by a federally registered planning authority is complete, the electric transmission owner who is constructing, owning, and maintaining the electric transmission line approved by a federally registered planning authority shall provide quarterly reports to the board detailing the estimated cost to construct the electric transmission line approved by a federally registered planning authority. If the estimated cost to construct the electric transmission line approved by a federally registered planning authority changes from the last report, the electric transmission owner who is constructing, owning, and maintaining the electric transmission line approved by a federally registered planning authority shall provide an explanation as to the change.

11.14(6) Compliance with board rules. Nothing in this rule shall modify or alter any requirements established in this chapter of the board's rules.

ARC 6013C**UTILITIES DIVISION[199]****Notice of Intended Action****Proposing rule making related to regulation of electric cooperatives
and providing an opportunity for public comment**

The Utilities Board hereby proposes to amend Chapter 27, “Regulation of Electric Cooperatives and Municipal Electric Utilities Under Iowa Code Chapter 476,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 476.1A and 476.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 476.1A.

Purpose and Summary

The purpose of this proposed rule making is to rescind paragraph 27.1(2)“o” because of a question of the Board’s jurisdiction over electric cooperatives giving undue preference to customers pursuant to Iowa Code section 476.1A(3). The Board determined there was enough ambiguity in the statute that the Board’s jurisdiction should not be asserted through a rule.

The Board issued an order on October 11, 2021, commencing this rule making. The order is available on the Board’s electronic filing system, efs.iowa.gov, under Docket No. RMU-2021-0027.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

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 November 23, 2021. Comments should be directed to:

IT Support
Iowa Utilities Board
Phone: 515.725.7300
Email: ITSupport@iub.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

UTILITIES DIVISION[199](cont'd)

subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Rescind paragraph **27.1(2)“o.”**

ARC 6008C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency

Rule making related to incentive fund for mental health and disability services regions

The Human Services Department hereby amends Chapter 25, “Disability Services Management,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 225C.6.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 225C.7A.

Purpose and Summary

2021 Iowa Acts, Senate File 619, amends Iowa Code section 225C.7A to implement the incentive fund for mental health and disability services (MHDS) regions. This legislation creates a fund for the purpose of providing financial incentives for outcomes met from services provided by the MHDS region. These amendments implement the process for a region to apply for funds, establish the criteria for eligibility for the incentive fund, set time frames for review and approval of applications and establish the reporting and financial review requirements.

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

Pursuant to Iowa Code section 17A.4(3), the Department finds that notice and public participation are unnecessary or impractical because emergency adoption was approved by Administrative Rules Review Committee. 2021 Iowa Acts, Senate File 619, section 106, allows emergency adoption because applications are due to the MHDS regions by November 15, 2021. This emergency adoption also provides a benefit, since it will have a positive impact on regions which are eligible for incentive funds through an expedited process.

In compliance with Iowa Code section 17A.4(3)“a,” the Administrative Rules Review Committee at its October 4, 2021, meeting reviewed the Department’s determination and this rule making and approved the emergency adoption.

Reason for Waiver of Normal Effective Date

Pursuant to Iowa Code section 17A.5(2)“b”(1)(a) and (b), the Department also finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective on October 4, 2021, because the legislation allows for an early effective date and because the new rule confers a benefit, since it will have a positive impact on regions which are eligible for incentive funds by making the funds available through an expedited process.

Adoption of Rule Making

This rule making was adopted by the MHDS Commission on September 16, 2021.

Fiscal Impact

2021 Iowa Acts, Senate File 619, appropriates \$3 million from the General Fund to the incentive fund for SFY22. The amount of incentive fund expenditures is not yet known. Any additional expenditures in year 1 or year 2 will be funded by the MHDS regions.

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 became effective on October 4, 2021.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** definition of “Region incentive fund” in rule **441—25.11(331)**: “*Region incentive fund*” means the same as defined in Iowa Code section 225C.7A.

ITEM 2. Adopt the following **new** rule 441—25.22(225C):

441—25.22(225C) Incentive fund application, approval, and reporting.

25.22(1) Application for regional incentive funds. A mental health and disability services region must submit an application on forms specified by the department with required supporting documentation. An application to receive regional incentive funds must meet the following requirements:

a. The mental health and disability services region shall submit the application with supporting documentation electronically to the department by 4:30 p.m. on November 15, 2021, for state fiscal year 2022 funding.

b. The mental health and disability services region shall submit the application with supporting documentation electronically to the department by 4:30 p.m. on November 15, 2022, for state fiscal year 2023 funding.

c. The application shall be complete and signed by the chairperson of the mental health and disability services region governing board and regional chief executive officer.

d. Application supporting documentation shall include evidence to demonstrate compliance with subrule 25.22(2).

25.22(2) Applicant conditions. To receive funding in state fiscal years 2022 and 2023, the mental health and disability services region must meet the following conditions:

a. The mental health and disability services region must be in compliance with the regional service system management plan as defined in Iowa Code section 331.393.

b. Applicants for state fiscal year 2022 funding must have an ending balance in the region's combined services fund equal to or less than 40 percent of the actual expenditures in state fiscal year 2020.

c. Applicants for state fiscal year 2023 funding must have an ending balance in the region's combined services fund equal to or less than 20 percent of the actual expenditures in state fiscal year 2021.

d. The mental health and disability services region must need incentive funds for one or more of the following circumstances:

HUMAN SERVICES DEPARTMENT[441](cont'd)

(1) Operating in a deficit and a reduction in available funding for core services as the result of the reduction and elimination of the levy.

(2) Support of non-core services to maintain individuals in a community setting or reduce the risk that individuals needing services and supports would be placed in more restrictive, higher-cost settings.

25.22(3) *Incentive fund application review and approval.* The department shall make its final decisions for incentive funds on or before December 15 of the fiscal year of application.

a. A written notice regarding acceptance or rejection of an application and the total amount obligated shall be furnished to the mental health and disability services region.

b. The department shall distribute incentive funds payable to the mental health and disability services regions for the amounts due on or before January 1.

25.22(4) *Incentive fund reporting.* Mental health and disability services regions shall submit to the department a report on forms specified by the department twice each calendar year subsequent to an award distribution. Reports shall be submitted by February 15 and August 15.

25.22(5) *Incentive fund review.* The department shall analyze year-end financial records and annual independent audits of the mental health and disability services region for all years subsequent to an incentive fund award. If the department determines a mental health and disability services region's actual need for incentive funds was less than the amount of incentive funds granted, the mental health and disability services region shall refund the difference between the amount of assistance granted and the actual need.

a. A written notice outlining the department's findings and moneys identified for repayment shall be furnished to the regional administrative entity.

b. The mental health and disability services region shall submit the refund within 30 days of receiving notice from the department. Refunds shall be credited to the incentive fund.

This rule is intended to implement Iowa Code section 225C.7A as amended by 2021 Iowa Acts, Senate File 619.

[Filed Emergency 10/4/21, effective 10/4/21]

[Published 11/3/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/3/21.

ARC 6022C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to medical assistance eligibility and payment

The Human Services Department hereby amends Chapter 75, “Conditions of Eligibility,” and Chapter 80, “Procedure and Method of Payment,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 249A.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 249A.3.

Purpose and Summary

The Department is aligning administrative rules with current policy and federal regulations in several areas. The adopted rules:

- Remove exemptions from third-party liability for prenatal services based on the federal Bipartisan Budget Act of 2018.
- Update the minimum community spouse resource allowance to allow for the federal amount and link to the federal references so the amounts do not need to be updated annually.
- Add language to better describe the income considered in determining client participation.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 8, 2021, as **ARC 5904C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on October 14, 2021.

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).

HUMAN SERVICES DEPARTMENT[441](cont'd)

Effective Date

This rule making will become effective on January 1, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph **75.5(3)“d”** as follows:

d. Method of attribution. The resources attributed to the institutionalized spouse shall be one-half of the documented resources of both the institutionalized spouse and the community spouse as of the first moment of the first day of the month of the spouse’s first entry to a medical facility. However, if one-half of the resources is less than \$24,000 the minimum set by the federal spousal impoverishment provisions, then the greater of \$24,000 or the federally established minimum shall be protected for the community spouse. Also, when one-half of the resources attributed to the community spouse exceeds the maximum amount allowed as a community spouse resource allowance by Section 1924(f)(2)(A)(i) of the Social Security Act (42 U.S.C. § 1396r-5(f)(2)(A)(i)) under the federal spousal impoverishment provisions, the amount over the maximum shall be attributed to the institutionalized spouse. (The minimum and maximum limit is limits are indexed annually according to the consumer price index.) The federal spousal impoverishment provisions are defined at Section 1924(f)(2)(A)(i) of the Social Security Act (42 U.S.C. §1396r-5(f)(2)(A)(i)).

If the institutionalized spouse has transferred resources to the community spouse under a court order for the support of the community spouse, the amount transferred shall be the amount attributed to the community spouse if it exceeds the specified limits above.

ITEM 2. Amend subrule 75.16(1), introductory paragraph, as follows:

75.16(1) Income considered in determining client participation. The department determines the amount of client participation based on the client’s total monthly income. Income is determined pursuant to the supplemental security income program under Title XVI of the Social Security Act (42 U.S.C. §1396r-5(f)(2)(A)(i)) with the following exceptions:

ITEM 3. Amend rule ~~441—75.25(249A)~~, definition of “Pay and chase,” as follows:

“*Pay and chase*” shall mean that the state pays the total amount allowed under the agency’s payment schedule and then seeks reimbursement from the liable third party. The pay and chase provision applies to Medicaid claims ~~for prenatal care~~, for preventive pediatric services, and for all services provided to a person for whom there is court-ordered medical support.

ITEM 4. Amend paragraph **80.3(2)“a”** as follows:

a. The department pays the total amount allowed under the Medicaid payment schedule and then seeks reimbursement from the liable third party. This “pay and chase” provision applies to claims for:

- ~~(1) Prenatal care,~~
- ~~(2) (1)~~ Preventive pediatric services, and
- ~~(3) (2)~~ All services provided to a person for whom there is court-ordered medical support.

[Filed 10/14/21, effective 1/1/22]

[Published 11/3/21]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 11/3/21.

ARC 6023C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to child care

The Human Services Department hereby amends Chapter 109, “Child Care Centers,” Chapter 110, “Child Development Homes,” and Chapter 120, “Child Care Homes,” Iowa Administrative Code.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code chapter 237A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 237A.3 and 2021 Iowa Acts, House File 260.

Purpose and Summary

These amendments implement 2021 Iowa Acts, House File 260, which was enacted in the 2021 Legislative Session. The amendments increase the number of children allowed at any one time in a nonregistered child care home to six or fewer if at least one of the children is school-aged. The number of children allowed to be cared for at any one time in a registered child development home is increasing from six or more to seven or more.

In addition, the Department is simplifying regulatory requirements by removing the definition of “part-time hours.” The rules are also updated to reduce the paperwork burden for providers by limiting the information needed in provider files to verify professional development requirements.

The requirement for preinspection of a private sewage disposal system prior to the opening of a child development home or child care home with a private sewage disposal system and for reinspection every two years, which can cause burdens to rural providers, is removed in collaboration with Department of Natural Resources staff.

The rules are updated to be in compliance with the Iowa Department of Public Health (IDPH) rules concerning lead paint remediation.

References to breast milk are removed from rule language regarding infectious disease control because breast milk is not a bodily fluid covered under universal precaution procedures for infectious diseases.

The requirements of the child care provider physical health form are simplified to require that reports be completed for all providers and for all members of a provider’s household who are 18 years of age or older.

The amendments align the process for permission for children to attend activities away from a child development home or child care home with the current process for permission for children to attend activities away from a child care center.

The amendments also simplify ratios in child development homes without increasing the total capacity and increase the number of infants allowed to be served in a home with two providers.

The amendments remove language regarding substitutes in child care centers, as substitutes are considered child care facility staff under federal rules and fall under the same requirements as other staff.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 11, 2021, as **ARC 5832C**.

No public comments were received. However, upon further review, the Department determined that an additional change was needed regarding child care limits in subrule 110.15(1). Limits on the number of children in care are increasing from no more than 12 children not attending kindergarten or a higher grade level to 14 children. To be consistent with the legislative change, the Department has revised paragraphs 110.15(1)“a” to “c” by striking “12” and inserting “14” in each paragraph (Item 23). Additionally, the Department has updated three references to the IDPH Smokefree Air Act website to include the correct URL (Items 10, 16, 26).

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on October 14, 2021.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Fiscal Impact

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

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found, but the rule making may assist in maintaining the number of existing child care home providers.

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 January 1, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph **109.2(3)“a”** as follows:

a. A provisional license may be issued or a previously issued license may be reduced to a provisional license for a period up to one year when the center does not sufficiently meet ~~all~~ standards imposed by law and these rules.

ITEM 2. Amend subrule 109.6(5) as follows:

109.6(5) *Volunteers and substitutes.* A volunteer shall be at least 16 years of age. All volunteers ~~and substitutes~~ shall:

a. No change.

b. Sign a statement indicating the volunteer ~~or substitute~~ has been informed of the volunteer's ~~or substitute's~~ responsibilities as a mandatory reporter.

c. Undergo the record check process when any of the following criteria are met:

(1) The volunteer ~~or substitute~~ is included in meeting the required child-to-staff ratio;

(2) The volunteer ~~or substitute~~ has direct responsibility for a child or children; or

(3) The volunteer ~~or substitute~~ has access to a child or children with no other staff present.

d. No change.

ITEM 3. Amend subparagraph **109.6(6)“a”(1)** as follows:

(1) Criminal and child abuse record checks shall be conducted for:

1. Each owner, director, staff member, ~~substitute~~, volunteer, or subcontracted staff person with direct responsibility for child care or with access to a child when the child is alone;

2. No change.

ITEM 4. Amend subparagraph **109.7(1)“e”(10)** as follows:

(10) Child development, ~~on or after August 1, 2017.~~

ITEM 5. Rescind paragraph **109.7(2)“d.”**

ITEM 6. Amend subparagraph **109.7(3)“e”(10)** as follows:

(10) Child development, ~~on or after August 1, 2017.~~

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 7. Amend subrule 109.7(6) as follows:

109.7(6) Approved training.

a. No change.

~~*b.* Training received in a group setting must follow a presentation format that incorporates a variety of adult learning methods. The material or content of the training must be obtained from one of the entities listed in paragraph “a” or an entity approved under paragraph “g.” Approved training shall be made available to Iowa child care providers through the child care provider training registry beginning July 1, 2009.~~

~~*c.* Training received in a group setting may include distance learning opportunities such as training conducted over the Iowa communications network, on-line courses, or web conferencing (webinars) if:~~

~~(1) The training meets the requirements in subrule 109.7(7);~~

~~(2) The training is taught by an instructor and requires interaction between the instructor and the participants, such as required chats or message boards; and~~

~~(3) The training organization meets the requirements listed in this subrule or is approved by the department.~~

~~*d.* *b.* The department will not approve more than eight hours of training delivered in a single day.~~

~~*e.* *c.* The department may randomly monitor any state-approved training for quality control purposes.~~

~~*f.* *d.* Training conducted with staff either during the hours of operation of the facility, during staff lunch hours, or while children are resting must not diminish the required staff ratio coverage. Staff shall not be actively engaged in care and supervision and simultaneously participate in training.~~

~~*g.* *e.* A training organization not approved by the department may submit for review to the department a request for child care training approval. All approvals, unless otherwise specified, shall be valid for five years. The department shall issue its decision within 30 business days of receipt of a complete request.~~

ITEM 8. Amend paragraph **109.9(1)“d”** as follows:

d. A physical examination report. Personnel shall have good health as evidenced by a preemployment physical examination. Acceptable physical examinations shall be documented on Form 470-5152, Child Care Provider Physical Examination Report. The examination shall ~~include any necessary testing for communicable diseases; shall include a discussion regarding current Advisory Committee on Immunization Practices (ACIP) recommended vaccinations; shall be performed within six months prior to beginning employment by a licensed medical doctor, doctor of osteopathy, physician assistant or advanced registered nurse practitioner; and shall be repeated at least every three years.~~

ITEM 9. Amend subrule 109.10(5) as follows:

109.10(5) Infectious disease control. Centers shall establish policies and procedures related to infectious disease control and the use of universal precautions with the handling of any bodily excrement or discharge, ~~including or~~ blood and breast milk. Soiled diapers shall be stored in containers separate from other waste.

ITEM 10. Amend paragraph **109.10(11)“b”** as follows:

b. The Internet address of the department of public health (www.iowasmokefreeair.gov) (smokefreeair.iowa.gov).

ITEM 11. Amend paragraphs **109.10(16)“a”** and **“b”** as follows:

a. The center director and on-site supervisor shall ensure that each staff member, ~~substitute,~~ or volunteer knows the number and names of children assigned to that staff member, ~~substitute,~~ or volunteer for care. Assigned staff, ~~substitutes,~~ and volunteers shall provide careful supervision.

b. Any person in the center who is not an owner, staff member, ~~substitute,~~ or volunteer who has a record check and department approval to be involved with child care shall not have unrestricted access to children for whom that person is not the parent, guardian, or custodian.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 12. Amend paragraphs **109.11(7)“a”** and **“b”** as follows:

a. Within one year of being issued an initial or renewal license, centers operating in facilities built prior to ~~1960~~ 1978 shall conduct a visual assessment for lead hazards that exist in the form of peeling, cracking or chipping paint or painted surfaces in need of repair. ~~If the presence of peeling or chipping paint is these lead hazards are found, the paint shall be presumed to be lead-based paint unless a certified inspector as defined in department of public health rules at 641—Chapter 70 determines that it is not lead-based paint it shall be assumed that lead-based paint is present on the surfaces, and the surfaces shall be repaired by an Iowa certified lead-safe renovator before a full license will be issued. If the presence of peeling or chipping paint is found, interim controls using safe work methods as defined by the state department of public health shall be accomplished prior to a full license being issued.~~

b. Within one year of being issued an initial or renewal license, centers operating in facilities that are at ground level, use a basement area as program space, or have a basement beneath the program area shall have radon testing performed as prescribed by the state department of public health at 641—Chapter 43. ~~Testing shall be required if test kits are available from the local health department or the Iowa Radon Coalition. Retesting shall be accomplished at least every two years from the date of the initial measurement if test kits are available from the local health department or the Iowa Radon Coalition. If testing determines confirmed radon gas levels in excess of 4.0 picocurie per liter, a plan using radon mitigation procedures established by the state department of public health shall be developed with and approved by the state department of public health prior to a full license being issued.~~

ITEM 13. Amend rule **441—110.1(237A)**, definitions of “Child care home” and “Child development home,” as follows:

“*Child care home*” means a person or program providing child care to ~~five or fewer~~ any of the following children at any one time that is not registered to provide child care under this chapter, as authorized under Iowa Code section 237A.3:

1. Five or fewer children.
2. Six or fewer children, if at least one of the children is school-aged.

“*Child development home*” means a person or program registered under this chapter that may provide child care to ~~six~~ seven or more children at any one time.

ITEM 14. Rescind the definition of “Part-time hours” in rule **441—110.1(237A)**.

ITEM 15. Amend rule 441—110.3(237A) as follows:

441—110.3(237A) Renewal of registration. Renewal of registration shall be completed every 24 months. To request renewal, a provider shall submit Form 470-3384, Application for Child Development Home Registration, and ~~copies of certificates of training, which shall be retained in the registration file~~ training completion evidence either through certificates or as updated in Iowa’s early childhood and school age professional workforce registry (i-PoWeR). The registration renewal process shall include completion of child abuse, sex offender, and criminal record checks.

ITEM 16. Amend paragraphs **110.8(1)“i”** to **“k”** as follows:

i. Smoking and the use of tobacco products shall be prohibited at all times in the home and in every vehicle in which children receiving care in the home are transported. Smoking and the use of tobacco products shall be prohibited in the outdoor play area during the home’s hours of operation. “No smoking” signs shall be posted at every entrance of the child care home and in every vehicle used to transport children. All signs shall include:

- (1) No change.
- (2) The Internet address of the department of public health (~~www.iowasmokefreeair.gov~~) (smokefreeair.iowa.gov).

j. Homes served by a private ~~sewer systems~~ sewage disposal system shall be ~~in compliance with discharge restrictions identified at 567—Chapter 69~~ operated and maintained to ensure the system is properly treating the wastewater and not creating an unsanitary condition in the environment. Discharge of untreated waste water from private sewage disposal systems is prohibited. ~~Compliance shall be~~

HUMAN SERVICES DEPARTMENT[441](cont'd)

~~verified by the local board of health at the time of registration renewal and new registration. Concerns about noncompliance shall be referred to the local county sanitarian.~~

~~k. A provider operating in a facility built before 1960~~ 1978 shall assess and control lead hazards before being issued an initial child development home registration or a renewal of the registration. To comply with this requirement, the provider shall:

(1) ~~Conduct a visual assessment of the facility for lead hazards that exist in the form of chipping or peeling paint; Determine if painted surfaces on the interior or exterior of the facility are chipping, peeling, or cracking or in need of repair. Painted surfaces include walls, ceilings, windows, doors, stairs, and woodwork; and~~

(2) ~~Apply~~ If painted surfaces are in need of repair, hire an Iowa certified lead-safe renovator to make repairs or take training to become an Iowa certified lead-safe renovator. Iowa lead-safe renovators shall apply interim controls on any chipping, ~~or peeling, or cracking~~ paint found, using lead-safe work methods in accordance with and as defined by department of public health rules at 641—Chapters 69 and 70, ~~unless a certified inspector as defined in 641—Chapter 70 determines that the paint is not lead-based paint; and.~~

(3) ~~Submit Form 470-4755, Lead Assessment and Control, as verification of the visual assessment and completion of interim controls, if necessary.~~

ITEM 17. Amend subrule 110.8(3) as follows:

110.8(3) Medications and hazardous materials.

a. to c. No change.

~~*d.* All new providers and providers renewing registrations after September 30, 2016, shall not provide medications to a child if the provider has not completed preservice/orientation training that includes medication administration.~~

~~*e. d.* The provider shall establish procedures related to infectious disease control and handling of any bodily excrement or discharge, including or blood and breast milk. Soiled diapers shall be stored in containers separate from other waste.~~

ITEM 18. Amend subrule 110.9(1) as follows:

110.9(1) A provider file shall be maintained and shall contain the following:

~~*a.* A physical examination report. Providers and all members of a provider's household over the age of 12 aged 18 years or older shall have good health as evidenced by a preregistration physical examination. Acceptable physical examinations shall be documented on Form 470-5152, Child Care Provider Physical Examination Report. ~~The physical examination shall include any necessary testing for communicable diseases; shall include a discussion regarding current Advisory Committee on Immunization Practices (ACIP) recommended vaccinations; shall be performed by a licensed medical doctor, doctor of osteopathy, physician assistant or advanced registered nurse practitioner within six months prior to the provider's registration; and shall be repeated at least every three years. All children residing in the household who are 12 years of age or younger must have the medical documentation outlined in paragraphs 110.9(4) "d," "f," and "g."~~~~

~~*b.* Certificates or other documentation from the department verifying the following: I-PoWeR records or certificates verifying required training completion as set forth in subrule 110.10(1).~~

~~(1) Required training as set forth in subrule 110.10(1).~~

~~(2) Completion of all record checks as required in subrule 110.11(3), at initial application, at each application for change, and at each application for renewal.~~

ITEM 19. Amend subrule 110.9(4) as follows:

110.9(4) Children's files. An individual file for each child shall be maintained and updated annually or when the provider becomes aware of changes. The file shall contain:

a. to d. No change.

~~*e.* A~~ For children under the age of six, a statement of health condition signed by a physician or designee and submitted annually from the date of the admission physical examination. For a child who is ~~five years of age or older~~ and enrolled in school, a statement of health status signed by the parent or legal guardian may be substituted for the physician statement.

HUMAN SERVICES DEPARTMENT[441](cont'd)

f. and *g.* No change.

h. For any child with allergies, a written emergency care plan in case of an allergic reaction. A copy of this information shall accompany the child if the child leaves the premises.

i. ~~A list~~ Documentation that is signed by the parent and names persons authorized to pick up the child. The authorization shall include the name, telephone number, and relationship of the authorized person to the child.

j. Written permission from the parent for the child to attend activities away from the child development home. ~~The permission shall include:~~

~~(1) Times of departure and arrival.~~

~~(2) Destination.~~

~~(3) Names of persons who will be responsible for the child.~~

k. and *l.* No change.

ITEM 20. Amend subrule 110.10(2) as follows:

110.10(2) *Approved training.*

a. No change.

~~*b.* Training received in a group setting must follow a presentation format that incorporates a variety of adult learning methods. The material or content of the training must be obtained from one of the entities listed in paragraph 110.10(2) "a" or an entity approved under paragraph 110.10(2) "h."~~

~~*e. b.* Approved training shall be made available to Iowa child care providers through the child care provider training registry i-PoWeR.~~

~~*d.* Training received in a group setting may include distance learning opportunities, such as training conducted over the Iowa communications network, online courses, or web conferencing (webinars) if:~~

~~(1) The training meets the requirements in subrule 110.10(3);~~

~~(2) The training is taught by an instructor and requires interaction between the instructor and the participants, such as required chats or message boards; and~~

~~(3) The training organization meets the requirements listed in this subrule or is approved by the department.~~

~~*e. c.* The department will not approve more than eight hours of training delivered in a single day.~~

~~*f. d.* The department may randomly monitor any state-approved training for quality control purposes.~~

~~*g. e.* Training conducted with the provider either during the hours of operation of the facility, during provider lunch hours, or while children are resting must not diminish the required ratio coverage. The provider shall not be actively engaged in care and supervision and simultaneously participate in training.~~

~~*h. f.* A training organization not approved by the department may submit a request for review to the department on Form 470-4528, Request for Child Care Training Approval. All approvals, unless otherwise specified, shall be valid for five years. The department shall issue its decision within 30 business days of receipt of a complete request.~~

ITEM 21. Amend paragraphs **110.13(1)"b"** and **"c"** as follows:

b. Of these six children, no more than four children who are 24 months of age or younger shall be present at any one time. Of these four children, no more than three may be ~~18~~ 12 months of age or younger.

c. In addition to the six children not in school, no more than two children who attend school may be present ~~for a period of less than two hours at a time.~~

ITEM 22. Amend subrule 110.14(1) as follows:

110.14(1) *Limits on number of children in care.*

a. No more than ~~six~~ eight children not attending kindergarten or a higher grade level shall be present at any one time.

HUMAN SERVICES DEPARTMENT[441](cont'd)

b. Of these ~~six~~ eight children, no more than four children who are 24 months of age or younger shall be present at any one time. Of these four children, no more than three may be ~~18~~ 12 months of age or younger.

c. In addition to the ~~six~~ eight children not in school, no more than four children who attend school may be present.

~~d. In addition to these ten children, no more than two children who are receiving care on a part-time basis may be present.~~

~~e. d.~~ No more than 12 children shall be present at any one time when an emergency school closing is in effect.

~~f. e.~~ If more than eight children are present at any one time for a period of more than two hours, the provider shall be assisted by a department-approved assistant who is at least 14 years old, unless extra children are present as a result of an emergency school closing.

ITEM 23. Amend subrule 110.15(1) as follows:

110.15(1) Limits on number of children in care.

a. No more than ~~12~~ 14 children not attending kindergarten or a higher grade level shall be present at any one time.

b. Of these ~~12~~ 14 children, no more than ~~four~~ 6 children who are 24 months of age or younger shall be present at any one time. Whenever four children who are under the age of ~~18~~ 12 months are in care, both providers shall be present.

c. In addition to the ~~12~~ 14 children not in school, no more than ~~two~~ 4 children who attend school may be present for a period of ~~less than two hours at any one time.~~

~~d. In addition to these 14 children, no more than two children who are receiving care on a part-time basis may be present.~~

~~e. d.~~ No more than 16 children shall be present at any one time when an emergency school closing is in effect.

~~f. e.~~ If more than eight children are present, both providers shall be present. Each provider shall meet the provider qualifications for child development home category C.

ITEM 24. Amend rule ~~441—120.1(237A)~~, definitions of “Child care home” and “Child development home,” as follows:

“*Child care home*” means a person or program providing child care to ~~five or fewer~~ any of the following children at any one time that is not registered to provide child care under this chapter, as authorized under Iowa Code section 237A.3-:

1. Five or fewer children.

2. Six or fewer children, if at least one of the children is school-aged.

“*Child development home*” means a person or program registered under this chapter that may provide child care to ~~six~~ seven or more children at any one time.

ITEM 25. Amend rule ~~441—120.3(237A)~~ as follows:

441—120.3(237A) Renewal of agreement. Renewal of the child care assistance provider agreement shall be completed every 24 months. To request renewal, a provider shall submit Form 470-2890, Payment Application for Nonregistered Providers, and ~~copies of certificates of training, which shall be retained in the file~~ training completion evidence either through certificates or as updated in Iowa’s early childhood and school age professional workforce registry (i-PoWeR). The agreement renewal process shall include completion of child abuse, sex offender, and criminal record checks.

ITEM 26. Amend paragraphs **120.8(1)**“i” to “k” as follows:

i. Smoking and the use of tobacco products shall be prohibited at all times in the home and in every vehicle in which children receiving care in the home are transported. Smoking and the use of tobacco products shall be prohibited in the outdoor play area during the home’s hours of operation. “No smoking” signs shall be posted at every entrance of the child care home and in every vehicle used to transport children. All signs shall include:

(1) No change.

HUMAN SERVICES DEPARTMENT[441](cont'd)

(2) The Internet address of the department of public health (~~www.iowasmokefreeair.gov~~) (smokefreeair.iowa.gov).

~~j. Homes served by a private sewer systems sewage disposal system shall be in compliance with discharge restrictions identified at 567—Chapter 69 operated and maintained to ensure the system is properly treating the wastewater and not creating an unsanitary condition in the environment. Discharge of untreated waste water from private sewage disposal systems is prohibited. Compliance shall be verified by the local board of health at the time of renewal of the child care assistance provider agreement and new application. Concerns about noncompliance shall be referred to the local county sanitarian.~~

k. A provider operating in a facility built before ~~1960~~ 1978 shall assess and control lead hazards before being issued an initial child care assistance provider agreement or a renewal of the provider agreement. To comply with this requirement, the provider shall:

(1) ~~Conduct a visual assessment of the facility for lead hazards that exist in the form of chipping or peeling paint; Determine if painted surfaces on the interior or exterior of the facility are chipping, peeling, or cracking or in need of repair. Painted surfaces include walls, ceilings, windows, doors, stairs, and woodwork; and~~

(2) ~~Apply~~ If painted surfaces are in need of repair, hire an Iowa certified lead-safe renovator to make repairs or take training to become an Iowa certified lead-safe renovator. Iowa lead-safe renovators shall apply interim controls on any chipping, or peeling, or cracking paint found, using lead-safe work methods in accordance with and as defined by department of public health rules at 641—Chapters 69 and 70, unless a certified inspector as defined in 641—Chapter 70 determines that the paint is not lead-based paint; and.

~~(3) Submit Form 470-4755, Lead Assessment and Control, as verification of the visual assessment and completion of interim controls, if necessary.~~

ITEM 27. Amend paragraph **120.8(3)“e”** as follows:

e. The provider shall establish procedures related to infectious disease control and handling of any bodily excrement or discharge, including or ~~blood and breast milk~~. Soiled diapers shall be stored in containers separate from other waste.

ITEM 28. Amend subrule 120.9(2) as follows:

120.9(2) The file shall contain:

a. to d. No change.

e. ~~A~~ For children under the age of six, a statement of health condition signed by a physician or designee submitted annually from the date of the admission physical examination. For a child who is five years of age or older and enrolled in school, a statement of health status signed by the parent or legal guardian may be substituted for the physician statement.

f. ~~A list~~ Documentation that is signed by the parent and names persons authorized to pick up the child. The authorization shall include the name, telephone number, and relationship of the authorized person to the child.

g. and h. No change.

i. Written permission from the parent for the child to attend activities away from the child care home. ~~The permission shall include:~~

(1) ~~Times of departure and arrival.~~

(2) ~~Destination.~~

(3) ~~Names of persons who will be responsible for the child.~~

j. No change.

ITEM 29. Amend subrule 120.10(7) as follows:

120.10(7) Approved training.

a. No change.

b. ~~Training received in a group setting must follow a presentation format that incorporates a variety of adult learning methods. The material or content of the training must be obtained from one of the entities listed in paragraph 120.10(7)“a” or an entity approved under paragraph 120.10(7)“h.”~~

HUMAN SERVICES DEPARTMENT[441](cont'd)

~~e. b.~~ Approved training shall be made available to Iowa child care providers through the child care provider training registry i-PoWeR.

~~d.~~ Training received in a group setting may include distance learning opportunities, such as training conducted over the Iowa communications network, online courses, or web conferencing (webinars) if:

- ~~(1)~~ The training meets the requirements in subrule 120.10(8);
- ~~(2)~~ The training is taught by an instructor and requires interaction between the instructor and the participants, such as required chats or message boards; and
- ~~(3)~~ The training organization meets the requirements listed in this subrule or is approved by the department.

~~e. c.~~ The department will not approve more than eight hours of training delivered in a single day.

~~f. d.~~ The department may randomly monitor any state-approved training for quality control purposes.

~~g. e.~~ Training conducted with the provider either during the hours of operation of the facility, during provider lunch hours, or while children are resting must not diminish the required ratio coverage. The provider shall not be actively engaged in care and supervision and simultaneously participate in training.

~~h. f.~~ A training organization not approved by the department may submit a request for review to the department on Form 470-4528, Request for Child Care Training Approval. All approvals, unless otherwise specified, shall be valid for five years. The department shall issue its decision within 30 business days of receipt of a complete request.

[Filed 10/14/21, effective 1/1/22]

[Published 11/3/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/3/21.

ARC 6018C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Rule making related to frequency of game nights

The Inspections and Appeals Department hereby amends Chapter 100, "General Provisions for Social and Charitable Gambling," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 99B.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2021 Iowa Acts, House File 311.

Purpose and Summary

The amendments to Chapter 100 implement 2021 Iowa Acts, House File 311. The legislation modifies the frequency of game nights conducted by licensed qualified organizations.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 8, 2021, as **ARC 5895C**. No public comments were received. No changes from the Notice have been made.

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

Adoption of Rule Making

This rule making was adopted by the Department on October 13, 2021.

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 December 8, 2021.

The following rule-making action is adopted:

Amend rule 481—100.2(99B) as follows:

481—100.2(99B) Licensure. Gambling shall only occur upon receipt of a license issued by the department. The license shall be prominently displayed at the gambling location.

100.2(1) Types of gambling licenses—qualified organizations. A qualified organization (QO), as defined in Iowa Code section 99B.1(26), may apply for the six following license types, each of which permits the activities listed. A QO with a two-year QO license may also apply for a seventh license type, a very large raffle license.

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

License type/Activity type	Two-year QO	One-year QO	180-day QO	90-day QO	14-day QO	Bingo at a fair or festival
Bingo	Three occasions per week; 15 occasions per month	No	No	No	Two occasions	One occasion per day for length of fair or festival
Games of skill and chance	Unlimited carnival-style games	No	No	No	Unlimited carnival-style games	No
Game night	One per calendar year month	One per calendar year month	One per calendar year month	One per calendar year month	One per calendar year month	No
Very small and small raffles	Unlimited	Unlimited	Unlimited	Unlimited	Unlimited	No
Large raffles	One per calendar year	Eight per license period, each conducted in a different county	One per calendar year	One per calendar year	One per calendar year	No
Very large raffles	One per calendar year, requires additional very large raffle license	One per calendar year, requires additional very large raffle license	No	No	No	No
Electronic raffles	One small raffle per day; one large raffle per calendar year	No	No	No	No	No

100.2(2) and **100.2(3)** No change.

[Filed 10/13/21, effective 12/8/21]

[Published 11/3/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/3/21.

ARC 6006C

INSURANCE DIVISION[191]

Adopted and Filed

Rule making related to surplus lines insurers

The Insurance Division hereby amends Chapter 21, "Requirements for Surplus Lines, Risk Retention Groups and Purchasing Groups," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 515I.15.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 515I.

INSURANCE DIVISION[191](cont'd)

Purpose and Summary

These amendments add a late fee of \$500 for surplus lines insurers that (1) fail to file renewal applications by March 1 of each year following the year of registration or fail to submit requested information or (2) fail to file a financial statement as instructed on the Division's website.

The Division has been unable to secure reasonable compliance with the renewal requirements and timely submission of financial statements for eligible surplus lines insurers. This increasing noncompliance has taken two forms: more filers filing after the deadline and more filers requiring additional outreach from the Division. In 2020, 13 surplus lines insurers failed to timely file their renewal.

Under the existing Chapter 21, noncompliance requires automatic termination of the insurer's status as an eligible surplus lines insurer. In the event of noncompliance, the Division may also pursue a formal administrative proceeding. The amended subrules consistently apply the same penalty to surplus lines insurers as is applied to other insurers that fail to timely file an application for renewal or fail to timely file financial statements.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 25, 2021, as **ARC 5874C**. A public hearing was held on September 15, 2021, at 9 a.m.

Two comments were received at the hearing. One comment was in support of the rule making. A second comment questioned the authority of the Division to impose a late fee on risk retention groups due to the existence of the federal Liability Risk Retention Act. No other public comments were received.

After reviewing the comments submitted, the Division has decided to not adopt changes, proposed in Item 3 of the Notice, related to risk retention groups.

Adoption of Rule Making

This rule making was adopted by Douglas Ommen, Iowa Insurance Commissioner, on October 5, 2021.

Fiscal Impact

The fiscal impact cannot be calculated at this time. The goal of imposing a late fee is to encourage compliance with the filing deadline. If the addition of the late fee has its intended effect, the fiscal impact will be zero.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Division for a waiver of the discretionary provisions, if any, pursuant to 191—Chapter 4.

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).

INSURANCE DIVISION[191](cont'd)

Effective Date

This rule making will become effective on December 8, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend subrules 21.5(2) to 21.5(4) as follows:

21.5(2) *Procedures for renewal of an insurer as an eligible surplus lines insurer.* An eligible surplus lines insurer that was approved by the division as an eligible surplus lines insurer, except for an alien insurer under Iowa Code section ~~515I.2(7) "b,"~~ 515I.2(8) "b," must by March 1 of each year following the year of approval:

a. to c. No change.

21.5(3) *Periodic reporting.* An eligible surplus lines insurer, except for an alien insurer under Iowa Code section ~~515I.2(7) "b,"~~ 515I.2(8) "b," must submit annual and quarterly financial statements to the division as instructed on the division's website.

21.5(4) *Failure to comply with renewal procedures.* ~~Failure of an eligible surplus lines insurer to timely submit the renewal materials required by subrule 21.5(2) will result in the automatic termination of the insurer's status as an eligible surplus lines insurer. An eligible surplus lines insurer that fails to timely file an application for renewal as an eligible surplus lines insurer or fails to provide requested information shall pay a late fee of \$500.~~

ITEM 2. Adopt the following **new** subrules 21.5(5) to 21.5(7):

21.5(5) *Failure to timely file financial statements.* An eligible surplus lines insurer that fails to file a financial statement, as instructed on the division's website, shall pay a late fee of \$500. The commissioner may give notice to an insurer that fails to timely file that the insurer is in violation of this subrule. If the insurer fails to file the required financial statements within ten days of the date of the notice, the insurer shall pay an additional late fee of \$100 for each day the failure continues.

21.5(6) *Failure to comply with this rule.* An eligible surplus lines insurer's authority to transact new business in this state shall immediately cease until the insurer has fully complied with this rule, including paying all applicable late fees.

21.5(7) *Suspension.* The commissioner may order the suspension of an eligible surplus lines insurer's authority to transact the business of insurance within the state, after notice and hearing pursuant to Iowa Code chapter 17A, if the eligible surplus lines insurer fails to fully comply with this rule within 90 days, including paying all applicable late fees.

[Filed 10/5/21, effective 12/8/21]

[Published 11/3/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/3/21.

ARC 6024C

LIBRARIES AND INFORMATION SERVICES DIVISION[286]

Adopted and Filed

Rule making related to waivers

The Commission of Libraries hereby amends Chapter 10, "Waivers or Variances from Administrative Rules," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 256.52(4).

State or Federal Law Implemented

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

LIBRARIES AND INFORMATION SERVICES DIVISION[286](cont'd)

Purpose and Summary

These amendments update Chapter 10 in accordance with changes to Iowa Code section 17A.9A as required by 2020 Iowa Acts, House File 2389, section 10. The legislation called for deletion of the word “variance” when the word is used in relation to “waiver.” Amendments are also made relating to submission of information regarding waivers on the Legislative Services Agency’s website.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on April 21, 2021, as **ARC 5584C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Commission on October 14, 2021.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any, pursuant to 286—Chapter 10.

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 8, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend **286—Chapter 10**, title, as follows:

WAIVERS OR VARIANCES FROM ADMINISTRATIVE RULES

ITEM 2. Amend rule 286—10.1(17A) as follows:

286—10.1(17A) Scope of chapter. This chapter outlines a uniform process for the granting of waivers or variances from rules adopted by the commission in situations where no other more specifically applicable law provides for waivers. To the extent another more specific provision of law governs the issuance of a waiver from a particular rule, the more specific provision shall supersede this chapter with respect to any waiver from that rule.

ITEM 3. Amend rule 286—10.2(17A) as follows:

286—10.2(17A) Definitions.

“*Commission*” means the commission of libraries established by Iowa Code section 256.52.

LIBRARIES AND INFORMATION SERVICES DIVISION[286](cont'd)

“*Division*” means the division of libraries and information services of the department of education.

“*Person*” means an individual, library, government or governmental subdivision or agency, partnership or association, or any legal entity.

“*Waiver or variance*” means an agency action which suspends in whole or in part the requirements or provisions of a rule as applied to an identified person on the basis of the particular circumstances of that person.

ITEM 4. Amend rule 286—10.3(17A) as follows:

286—10.3(17A) Applicability.

10.3(1) The commission may grant a waiver ~~or variance~~ from a rule adopted by the commission only if (1) the commission has jurisdiction over the rule; (2) no statute or rule otherwise controls the granting of a waiver ~~or variance~~ from the rule from which waiver ~~or variance~~ is requested; and (3) the requested waiver ~~or variance~~ is consistent with applicable statutes, constitutional provisions, or other provisions of law.

10.3(2) No waiver ~~or variance~~ may be granted from a requirement which is imposed by statute.

ITEM 5. Amend rule 286—10.4(17A) as follows:

286—10.4(17A) Commission discretion. The decision on whether the circumstances justify the granting of a waiver ~~or variance~~ shall be made at the discretion of the commission upon consideration of all relevant factors. Each petition for a waiver ~~or variance~~ shall be evaluated by the commission based on the unique, individual circumstances set out in the petition.

10.4(1) Criteria for waiver ~~or variance~~. In determining whether a waiver ~~or variance~~ should be granted, the commission shall consider the public interest, policies and legislative intent of the statute on which the rule is based. When the rule from which a waiver ~~or variance~~ is sought establishes administrative deadlines, the commission shall balance the special individual circumstances of the petitioner with the overall goal of uniform treatment of all similarly situated persons. The commission may, in response to a completed petition, grant a waiver ~~or variance~~ from a rule, in whole or in part, as applied to the circumstances of a specified situation if the commission finds all of the following:

a. The application of the rule would result in an undue hardship on the person for whom the waiver ~~or variance~~ is requested;

b. The waiver ~~or variance~~ from the requirements of the rule in the specific case would not prejudice the substantial legal rights of any person;

c. The provisions of the rule subject to the petition for waiver are not specifically mandated by statute or another provision of law; and

d. Substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver ~~or variance~~ is requested.

10.4(2) Special waiver ~~or variance~~ rules not precluded. These uniform waiver ~~and variance~~ rules shall not preclude the commission from granting waivers ~~or variances~~ in other contexts if a statute or other rule authorizes the commission to do so and the commission deems it appropriate to do so.

ITEM 6. Amend rule 286—10.5(17A) as follows:

286—10.5(17A) Requester’s responsibilities in filing a petition for waiver ~~or variance~~.

10.5(1) Application. All petitions for waiver ~~or variance~~ must be submitted in writing to the State Library, Ola Babcock Miller Building, 1112 E. East Grand Avenue, Des Moines, Iowa 50319. If the petition relates to a pending contested case, a copy of the petition shall also be filed in the contested case proceeding.

10.5(2) Content of petition. A petition for waiver ~~or variance~~ shall include the following information where applicable and known to the requester:

a. A description and citation of the specific rule from which a waiver ~~or variance~~ is requested.

b. The specific waiver ~~or variance~~ requested, including the precise scope and operative period that the waiver ~~or variance~~ will extend.

LIBRARIES AND INFORMATION SERVICES DIVISION[286](cont'd)

c. The relevant facts that the petitioner believes would justify a waiver ~~or variance~~ under each of the four criteria specified in paragraphs “a” through “d” of ~~subrule 10.4(1)~~. 10.4(1) “a” through “d.”

d. A signed statement from the petitioner attesting to the accuracy of the facts provided in the petition and a statement of reasons that the petitioner believes will justify a waiver ~~or variance~~.

e. A history of any prior contacts between the commission and the petitioner or between the division and the petitioner within the past five years.

f. Any information known to the requester regarding the treatment of similar cases by the commission.

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

h. The name, address, and telephone number of any person or entity that would be adversely affected by the granting of a petition.

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

j. Signed releases of information authorizing persons with knowledge regarding the request to furnish the commission with information relevant to the waiver ~~or variance~~.

10.5(3) *Burden of persuasion.* When a petition is filed for a waiver ~~or variance~~ from a rule, the burden of persuasion shall be on the petitioner to demonstrate by clear and convincing evidence that the commission should exercise the commission’s discretion to grant the petitioner a waiver ~~or variance~~.

ITEM 7. Amend rule 286—10.7(17A) as follows:

286—10.7(17A) Commission’s responsibilities regarding petition for waiver ~~or variance~~.

10.7(1) *Additional information.* Prior to issuing an order granting or denying a waiver ~~or variance~~, the commission may request additional information from the petitioner relative to the petition and surrounding circumstances. If the petition was not filed in a contested case, the commission may, on the commission’s own motion or at the petitioner’s request, schedule a telephonic or in-person meeting between the petitioner and the commission.

10.7(2) *Hearing procedures.* The provisions of Iowa Code sections 17A.10 to 17A.18A regarding contested case hearings shall apply in three situations: (1) to any petition for a waiver ~~or variance~~ of a rule filed within a contested case; (2) when the commission so provides by rule or order; or (3) when a statute so requires.

10.7(3) *Ruling.* An order granting or denying a waiver ~~or variance~~ shall be in writing and shall contain a reference to the particular person and rule or portion thereof to which the order pertains, a statement of the relevant facts and reasons upon which the action is based, and a description of the precise scope and operative period of the waiver if one is issued.

10.7(4) *Conditions.* The commission may place any condition on a waiver ~~or variance~~ that the commission finds desirable to protect the public health, safety, and welfare.

10.7(5) *Narrowly tailored exception.* A waiver, if granted, shall provide the narrowest exception possible to the provisions of a rule.

10.7(6) *Time period of waiver.* A waiver shall not be permanent unless the petitioner can show that a temporary waiver would be impracticable. If a temporary waiver is granted, there is no automatic right to renewal. At the sole discretion of the commission, a waiver may be renewed if the commission finds that grounds for a waiver continue to exist.

10.7(7) *Time for ruling.* The commission shall grant or deny a petition for a waiver ~~or variance~~ as soon as practicable but, in any event, shall do so within 120 days of its receipt, unless the petitioner agrees to a later date. However, if a petition is filed in a contested case, the commission shall grant or deny the petition no later than the time at which the final decision in that contested case is issued.

10.7(8) *When deemed denied.* Failure of the commission to grant or deny a petition within the required time period shall be deemed a denial of that petition by the commission.

10.7(9) *Service of order.* Within seven days of its issuance, any order issued under this chapter shall be transmitted to the petitioner or the person to whom the order pertains and to any other person entitled to such notice by any provision of law.

LIBRARIES AND INFORMATION SERVICES DIVISION[286](cont'd)

ITEM 8. Amend rule 286—10.8(17A) as follows:

286—10.8(17A) Public availability. All orders granting or denying waivers ~~and variances~~ under this chapter shall be indexed, filed and available for public inspection as provided in Iowa Code section 17A.3. Petitions for a waiver ~~or variance~~ and orders granting or denying a waiver ~~or variance~~ petition are public records under Iowa Code chapter 22. Some petitions or orders may contain information that the commission is authorized or required to keep confidential. The commission may accordingly redact confidential information from petitions or orders prior to public inspection.

ITEM 9. Amend rule 286—10.9(17A) as follows:

286—10.9(17A) Voiding or cancellation. A waiver ~~or variance~~ is void if the material facts upon which the request or petition is based are not true or if material facts have been withheld. A waiver ~~or variance~~ issued by the commission pursuant to this chapter may be withdrawn, canceled, or modified if, after appropriate notice and opportunity for hearing, the commission issues an order finding any of the following:

1. The petitioner or the person who was the subject of the waiver order withheld or misrepresented material facts relevant to the propriety or desirability of the waiver; or
2. The alternative means for ensuring that the public health, safety and welfare will be adequately protected after issuance of the waiver order have been demonstrated to be insufficient; or
3. The subject of the waiver order has failed to comply with any conditions contained in the order.

ITEM 10. Amend rule 286—10.10(17A) as follows:

286—10.10(17A) Violations. Violation of conditions in the waiver ~~or variance~~ order is the equivalent of violation of the particular rule for which the waiver ~~or variance~~ is granted and is subject to the same remedies or penalties.

ITEM 11. Amend rule 286—10.11(17A) as follows:

286—10.11(17A) Defense. After the commission issues an order granting a waiver ~~or variance~~, the order is a defense within its terms and the specific facts indicated therein for the person to whom the order pertains in any proceeding in which the rule in question is sought to be invoked.

ITEM 12. Amend rule 286—10.12(17A) as follows:

286—10.12(17A) Judicial review. Granting or denying a request for waiver ~~or variance~~ is final agency action under Iowa Code chapter 17A. Judicial review of the decision to grant or deny a waiver petition may be taken in accordance with Iowa Code chapter 17A.

ITEM 13. Amend rule 286—10.13(17A) as follows:

286—10.13(17A) Summary reports. Submission of waiver information. ~~Semiannually, the division shall prepare a summary report identifying~~ Within 60 days of granting or denying a waiver, the commission shall make a submission on the Internet site established pursuant to Iowa Code section 17A.9A for the submission of waiver information. The submission shall identify the rules for which a waiver has been granted or denied by the commission, the number of times a waiver was granted or denied for each rule, a citation to the statutory provisions implemented by these rules, and a general summary of the reasons justifying the commission's actions on waiver requests. If practicable, the ~~report~~ submission shall detail the extent to which the granting of a waiver has established a precedent for additional waivers and the extent to which the granting of a waiver has affected the general applicability

LIBRARIES AND INFORMATION SERVICES DIVISION[286](cont'd)

~~of the rule itself. Copies of this report shall be available for public inspection and shall be provided semiannually to the administrative rules coordinator and the administrative rules review committee.~~

[Filed 10/14/21, effective 12/8/21]

[Published 11/3/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/3/21.

ARC 6007C

REAL ESTATE APPRAISER EXAMINING BOARD[193F]

Adopted and Filed

Rule making related to real property appraisers and reciprocity

The Real Estate Appraiser Examining Board hereby amends Chapter 5, "Certified Residential Real Property Appraiser," Chapter 6, "Certified General Real Property Appraiser," and Chapter 10, "Reciprocity," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code chapter 543D.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 543D.

Purpose and Summary

These amendments implement changes recommended and required by 2021 Iowa Acts, House File 682. References in the rule to Iowa Code section 543D.22 should be understood to include the amendments to that section in 2021 Iowa Acts, House File 682.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 28, 2021, as **ARC 5786C**. A public hearing was held on August 17, 2021, at 9 a.m. in the Small Conference Room, Third Floor, 200 East Grand Avenue, Des Moines, Iowa. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on September 28, 2021.

Fiscal Impact

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

Jobs Impact

Licensees who have had a background check completed within 24 months of their associate registration application will be positively impacted by not having to provide, and submit, for a second background check.

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.

REAL ESTATE APPRAISER EXAMINING BOARD[193F](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 December 8, 2021.

The following rule-making actions are adopted:

ITEM 1. Rescind rule 193F—5.7(543D) and adopt the following **new** rule in lieu thereof:

193F—5.7(543D) Background check. A state and national criminal history check shall be performed on any appraiser upgrading to a new credential consistent with Iowa Code section 543D.22.

ITEM 2. Amend rule 193F—6.7(543D) as follows:

193F—6.7(543D) Background check. A state and national criminal history check shall be performed on any appraiser upgrading to a new credential consistent with Iowa Code section 543D.22. ~~The applicant shall authorize release of the results of the criminal history check to the board. If the criminal history check was not completed within 180 calendar days prior to the date the license application is received by the board, the board may perform a new state and national criminal history check or may reject and return the application to the applicant.~~

ITEM 3. Adopt the following **new** rule 193F—6.8(543D):

193F—6.8(543D) Upgrade from a certified residential real property appraiser to a certified general real property appraiser. To upgrade from a certified residential real property appraiser to a certified general real property appraiser, an applicant must complete the following additional education, examination, supervision, and experience requirements and a state and national criminal history check as provided in Iowa Code section 543D.22. For all intents and purposes, a certified residential real property appraiser seeking to upgrade to a certified general status will be considered an associate appraiser as it relates to differences between the scope of practice of the two licensure categories, and the upgrade process will generally follow the same registration requirements, supervisory identification and maintenance requirements, and processes and procedures generally applicable to associate appraisers set forth in 193F—Chapter 4.

6.8(1) Education.

a. Collegiate education. Certified residential real property appraisers must satisfy the college-level education requirements as specified in rule 193F—6.2(543D).

b. Core criteria. In addition to the formal education and core criteria educational requirements originally required to obtain a certified residential credential, an applicant must complete the following additional 100 creditable core criteria class hours before taking the AQB-approved examination. All courses must be AQB-approved under current core criteria to be considered creditable. The required courses and 100 hours consist of the following:

- | | |
|--|----------|
| (1) General appraiser market analysis and highest and best use | 15 hours |
| (2) General appraiser sales comparison approach | 15 hours |
| (3) General appraiser site valuation and cost approach | 15 hours |
| (4) General appraiser income approach | 45 hours |
| (5) General appraiser report writing and case studies | 10 hours |

6.8(2) Examination. An applicant must satisfy the examination requirements as specified in rule 193F—6.3(543D).

6.8(3) Supervision and experience.

REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

a. Experience. An applicant must satisfy all of the experience requirements as specified in rules 193F—6.4(543D) and 193F—6.5(543D). In obtaining and documenting the 3,000 total experience hours required by subrule 6.5(2), as is the case for initial licensure, such hours must be accumulated in no fewer than 18 months while in active status as, in effect, a registered associate appraiser pursuing an upgrade pursuant to this rule and subject to the supervision of an Iowa-certified appraiser. Notwithstanding the foregoing:

(1) To the extent residential appraisal experience may be counted toward licensure in accordance with subrule 6.5(2), residential appraisal experience obtained as a certified residential appraiser prior to initiating the upgrade process may be included on the appraisal log and, subject to the work product review process, counted toward the experience-hours requirement for purposes of upgrading from a certified real property appraiser to a certified general real property appraiser; provided that such residential appraisal experience obtained prior to initiating the upgrade process shall not apply toward the 18-month requirement.

(2) Applicants may request that the board approve experience hours performed in the absence of registration as an associate real property appraiser by filing an application for approval on a form provided by the board, which application will be subject to and governed by the same processes and standards set forth in rule 193F—6.4(543D).

b. Supervision. Subject to applicable exceptions, all nonresidential experience obtained and applied toward obtaining a certified general credential as part of the upgrade process shall be performed under the direct supervision of a certified general real property appraiser pursuant to the provisions of 193F—Chapter 15 and shall be subject to the identification, notification, maintenance, approval, scope-of-practice, log, and monitoring requirements set forth in 193F—Chapter 4. Both the applicant and the applicant's supervisor(s) must complete a supervisor/trainee course within the five years prior to the board's receipt of the associate registration application identifying a supervisor with the board or prior to the applicant's obtaining or claiming any experience hours under the supervision of that supervisor.

6.8(4) Work product review. An applicant must satisfy the work product review requirements as specified in rules 193F—6.5(543D) and 193F—6.6(543D).

6.8(5) Background check. A state and national criminal history check shall be performed on any appraiser upgrading to a new credential consistent with Iowa Code section 543D.22.

ITEM 4. Amend subrule 10.2(7) as follows:

10.2(7) An appraiser holding a license to practice as a real estate appraiser in another jurisdiction may practice in Iowa without applying for a temporary practice permit or paying any fees as long as the appraiser does not perform appraisal services in Iowa for federally regulated transactions or for which certification is required by state or federal law, rule or policy.

ITEM 5. Amend subrule 10.2(8) as follows:

10.2(8) The board must receive and approve an application for a temporary practice permit before the applicant is eligible to practice in Iowa under a temporary practice permit. ~~Applicants are encouraged to submit applications by email or facsimile to avoid the possible delays of mail service, because the board will not approve an application with a retroactive start date.~~ The board shall grant or deny all applications for temporary practice permits as quickly as reasonably feasible and no later than five days of receipt of a completed application. Applicants shall use the form prescribed by the board. Applicants disclosing discipline or criminal convictions shall attach documentation from which the board can determine if the discipline or criminal history would be a ground to deny the application. Falsification of information or failure to disclose material information shall be a ground to deny the application and may form the basis to deny any subsequent application or an application to reinstate a lapsed or inactive Iowa certificate.

[Filed 10/4/21, effective 12/8/21]

[Published 11/3/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/3/21.

ARC 6026C**REVENUE DEPARTMENT[701]****Adopted and Filed****Rule making related to appeals of the rejection of an assessor appointment or reappointment**

The Revenue Department hereby amends Chapter 7, “Appeals, Taxpayer Representation, and Other Administrative Procedures,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 421.14 and 441.6(3).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 441.6(3) and chapter 17A.

Purpose and Summary

This rule making implements and clarifies procedures for appeals of the Director of Revenue’s rejection of an assessor appointment or reappointment under Iowa Code section 441.6(3). This rule making alters the existing appeal procedures to clarify that the Director of Revenue is the presiding officer in contested cases under rule 701—7.37(441). Additionally, this rule making clarifies cross-references to the Department’s rule regarding contested cases before the Department.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 8, 2021, as **ARC 5885C**. No public comments were received. Changes from the Notice have been made to reflect the reorganization of Chapter 7 (**ARC 5940C**, IAB 10/6/21).

Adoption of Rule Making

This rule making was adopted by the Department on October 13, 2021.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

REVENUE DEPARTMENT[701](cont'd)

Effective Date

This rule making will become effective on December 8, 2021.

The following rule-making action is adopted:

Amend rule 701—7.37(441) as follows:

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

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

7.37(2) *Procedures.* Appeals will be governed by the procedures set forth in this rule together with the procedures set forth in the following rules:

- a. Subrules 7.3(2) and 7.3(3);
- b. Rule 701—7.7(17A);
- c. Rule 701—7.8(17A);
- d. The introductory paragraph of rule 701—7.9(17A) and subrule 7.9(7);
- e. Subrules 7.12(1), 7.12(2), and 7.12(6);
- f. Subrule 7.13(1);
- g. Subrules 7.14(1) to 7.14(3);
- h. Rule 701—7.15(17A);
- i. Rule 701—7.16(17A);
- j. Rule 701—7.17(17A);
- k. Rule 701—7.18(17A);
- l. Subrule 7.19(1); subrules 7.19(3) through 7.19(7); subrule 7.19(8), except paragraph 7.19(8) "b" related to costs shall not apply; additionally, Iowa Code section 421.60 shall not apply; subrules 7.19(9) and 7.19(13);
- m. Rule 701—7.20(17A);
- n. Rule 701—7.21(17A);
- o. Rule 701—7.22(17A); and
- p. Rule 701—7.23(17A).

7.37(3) *Presiding officer.* The director shall be the presiding officer in a contested case under this rule. The director may request that an administrative law judge assist and advise the director with any matters related to the contested case proceedings, including but not limited to ruling on any prehearing matters, presiding at the contested case hearing, and issuing orders and rulings.

7.37(2) 7.37(4) *Contents of the appeal.* The appeal shall contain the following in separate numbered paragraphs:

- a. A statement of the department action giving rise to the appeal.
- b. The date of the department action giving rise to the appeal.

REVENUE DEPARTMENT[701](cont'd)

- c. Each error alleged to have been committed, listed as a separate paragraph. For each error listed, an explanation of the error and all relevant facts related to the error shall be provided.
- d. Reference to the particular statutes, rules, or agreement terms, if known.
- e. References to and copies of any documents or other evidence relevant to the appeal.
- f. Any other matters deemed relevant to the appeal.
- g. A statement setting forth the relief sought.
- h. The signature, mailing address, and telephone number of the person or that person's representative.

~~7.37(3)~~ **7.37(5)** *Burden of proof.* The burden of proof is on the party challenging the director's decision under 701—subrule 72.15(4) or 72.16(3).

This rule is intended to implement Iowa Code section 441.6(3) and chapter 17A.

[Filed 10/15/21, effective 12/8/21]

[Published 11/3/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/3/21.

ARC 6031C

REVENUE DEPARTMENT[701]

Adopted and Filed

Rule making related to nonresident and part-year resident credit

The Revenue Department hereby amends Chapter 42, "Adjustments to Computed Tax and Tax Credits," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 422.68.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 422.5.

Purpose and Summary

This rule making relates to the Iowa individual income tax credit used to apportion a nonresident's or part-year resident's income among Iowa and other jurisdictions. The primary objective of these amendments is to modify the Iowa income percentage used to calculate the credit so that the percentage is computed to the nearest ten-thousandth of a percent (i.e., four digits to the right of the decimal point) for tax years beginning on or after January 1, 2022. The Iowa income percentage was previously computed to the nearest tenth of a percent (i.e., one digit to the right of the decimal point). This change will result in more accurate credit calculations and will create more uniformity under the Iowa income tax because corporations and other business entities apportion their income using a business activity ratio that is calculated to the nearest ten-thousandth of a percent. These amendments also make a number of changes to improve clarity and readability of the rules and to update or remove outdated language or outdated year or form references.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 8, 2021, as **ARC 5884C**. No public comments were received. No changes from the Notice have been made.

REVENUE DEPARTMENT[701](cont'd)

Adoption of Rule Making

This rule making was adopted by the Department on October 15, 2021.

Fiscal Impact

The change to the credit calculation is expected to result in a minimal increase or decrease to General Fund revenues. The total impact is expected to be less than \$100,000 each year.

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on December 8, 2021.

The following rule-making action is adopted:

Amend rule 701—42.5(422) as follows:

701—42.5(422) Nonresident and part-year resident credit. ~~For tax years beginning on or after January 1, 1982, an~~ An individual who is a nonresident of Iowa for the entire tax year, or an individual who is an Iowa resident for a portion of the tax year, is allowed a credit against the individual's Iowa income tax liability for the Iowa income tax on the portion of the individual's income which was earned outside Iowa while the person was a nonresident of Iowa. This credit is computed on Schedule IA 126, which is included in the Iowa individual income tax booklet. The following subrules ~~clarify~~ explain how the nonresident and part-year resident credit is computed for taxpayers who are nonresidents of Iowa and taxpayers who are part-year residents of Iowa during the tax year.

42.5(1) ~~Nonresident/part-year resident credit~~ Credit calculation for nonresidents of Iowa.

a. A Prior to the calculation of the nonresident credit, a nonresident of Iowa shall ~~complete the Iowa individual return in the same way an Iowa resident completes the form by reporting the individual's total net income, including income earned outside Iowa, on the front of the IA 1040 return form. A nonresident individual is allowed the same deduction for federal income tax and the same itemized deductions as an Iowa resident taxpayer with identical deductions for these expenditures~~ compute taxable income in the same manner as a full-year Iowa resident. Thus, a nonresident with a taxable income of \$40,000 would have the same initial Iowa income tax liability as a full-year Iowa resident taxpayer with a taxable income of \$40,000 with the same taxable income before the nonresident/part-year resident credit is computed.

b. The nonresident/part-year resident credit is computed on Schedule IA 126. The lines referred to in this subrule are from Schedule IA 126 and Form IA 1040 for the 2008 tax year. Similar lines on the schedule and form may apply for subsequent tax years. The individual's Iowa source net income from lines 1 through 25 of the schedule is totaled on line 26 of the schedule. If the nonresident's Iowa

REVENUE DEPARTMENT[701](cont'd)

source net income is less than \$1,000, the taxpayer is not subject to Iowa income tax and is not required to file an Iowa income tax return for the tax year. However, if the Iowa source net income amount is \$1,000 or more, the Iowa source net income is then divided by the person's all source net income on line 27 of Schedule IA 126 to determine the percentage of the Iowa net income to all source net income by dividing the taxpayer's Iowa source net income by the taxpayer's total net income. See 701—Chapter 40 to determine a nonresident's Iowa source net income and total net income. This Iowa income percentage, which is rounded to the nearest tenth of a percent, is inserted on line 28 of the schedule, and this (e.g., 1.2 percent) for tax years beginning before January 1, 2022, and to the nearest ten-thousandth of a percent (e.g., 1.2345 percent) for tax years beginning on or after January 1, 2022. The Iowa income percentage is then subtracted from 100 percent to arrive at the nonresident/part-year resident credit percentage of the, which represents the percentage of the individual's total income which was earned outside Iowa. The nonresident/part-year resident credit percentage is entered on line 29 of Schedule IA 126. The Iowa income tax on total income from line 43 of the IA 1040 is entered on line 30 of Schedule IA 126. The total of nonrefundable credits from line 49 of the IA 1040 is then shown on line 31 of Schedule IA 126. The amount on line 31 is subtracted from the amount on line 30, which results in the Iowa total tax after nonrefundable credits, which is entered on line 32. This Iowa tax after credits amount is multiplied by the nonresident/part-year resident credit percentage from line 29 net Iowa tax to compute the nonresident/part-year resident credit. The amount of the credit is inserted on line 33 of Schedule IA 126 and on line 51 of the IA 1040. For purposes of this subrule, "net Iowa tax" means the Iowa regular income tax after reduction for the nonrefundable credits provided in Iowa Code section 422.12.

EXAMPLE A. 1: A single resident of Nebraska had Iowa source net income of \$15,000 in 2008 2022 from wages earned from employment in Iowa. The rest of this person's income was attributable to sources outside Iowa. This nonresident of Iowa had an all source a total net income of \$40,000 and a taxable income of \$30,000 due to a federal tax deduction of \$7,000 and itemized deductions of \$3,000 allowable deductions. The Iowa income percentage is computed by dividing the Iowa source net income of \$15,000 by the taxpayer's all source total net income of \$40,000, which results in a percentage of 37.5 37.5000. This percentage is subtracted from 100 percent, which leaves a nonresident/part-year resident credit percentage of 62.5 62.5000.

The Iowa tax from line 43 of the IA 1040 before reduction for the nonrefundable credits under Iowa Code section 422.12 is \$1,508. The total nonrefundable credit from line 49 is \$40, which leaves a tax amount of \$1,468 when the credit is subtracted from \$1,508 (\$1,508 - \$40). When \$1,468 is multiplied by the nonresident/part-year resident credit percentage of 62.5 62.5000, a nonresident credit of \$918 is computed which is entered on line 33 of Schedule IA 126 as well as on line 51 of the IA 1040 for 2008.

EXAMPLE B. 2: A California resident, who was married, had \$20,000 of Iowa source net income in 2008 2022 from an Iowa farm. This individual had an additional \$80,000 in net income that was attributable to sources outside Iowa, but the individual's spouse had no income. The taxpayers had paid \$18,000 in federal income tax in 2008 and had itemized deductions of \$12,000 in 2008 a total net income of \$100,000 and a taxable income of \$70,000 due to allowable deductions.

The taxpayers' taxable income on their joint Iowa return was \$70,000. The taxpayers had an Iowa income tax liability of \$4,583 after application of the personal exemption credits of \$80 under Iowa Code section 422.12. The taxpayers had an Iowa source net income of \$20,000 and an all source a total net income of \$100,000. Therefore, the Iowa income percentage was 20 20.0000. Subtracting the Iowa income percentage of 20 percent from 100 percent leaves a nonresident/part-year resident credit percentage of 80 80.0000.

When the Iowa income tax liability of \$4,583 is multiplied by 80 percent, this results in a nonresident/part-year resident credit of \$3,666. This credit amount is entered on line 33 of the Schedule IA 126 and on line 51 of Form IA 1040.

42.5(2) Nonresident/part-year resident credit Credit calculation for part-year residents of Iowa.

a. ~~An~~ Prior to the calculation of the part-year resident credit, an individual who is a resident of Iowa for part of the tax year shall complete the front of the IA 1040 income tax return form as a resident taxpayer by showing the taxpayer's total income, including income earned outside Iowa, on the front

REVENUE DEPARTMENT[701](cont'd)

of the IA 1040 return form. A part-year resident of Iowa is allowed the same federal tax deduction and itemized deductions as a resident taxpayer who has paid the same amount of federal income tax and has paid for the same deductions that can be claimed on Schedule A in the tax year compute taxable income in the same manner as a full-year Iowa resident. Therefore, a part-year resident would have the same initial Iowa income tax liability as an a full-year Iowa resident with the same taxable income before computation of the ~~nonresident~~/part-year resident credit.

b. The ~~nonresident~~/part-year resident credit for a part-year resident is computed on Schedule IA 126. The lines referred to in this subrule are from the IA 1040 income tax return form and the Schedule IA 126 for 2008. Similar lines may apply for tax years after 2008. The individual's Iowa source income is totaled on line 26 of Schedule IA 126 and includes by adding all the individual's net income received while the taxpayer was a resident of Iowa and all the Iowa source net income received during the period of the tax year when the individual was a resident of a state other than Iowa. Iowa source income includes, but is not limited to, wages earned in Iowa while a resident of another state as well as income from Iowa farms and other Iowa businesses that was earned during the portion of the year that the taxpayer was a nonresident of Iowa. In the case of interest from a part-year resident's account at an Iowa financial institution, only interest earned during the period of the individual's Iowa residence is Iowa source income unless the account is for an Iowa business. If the part-year resident's account at a financial institution is for an Iowa business, all interest earned in the year by the part-year resident from the account is taxable to Iowa.

Income earned outside Iowa by the part-year resident during the portion of the year the individual was an Iowa resident is taxable to Iowa and is part of the individual's Iowa source income. To compute the ~~nonresident~~/part-year resident credit for a part-year resident, the taxpayer's Iowa source income on Schedule IA 126 is totaled. If the Iowa source income is less than \$1,000, the taxpayer is not subject to Iowa income tax and is not required to file an Iowa return. If the Iowa source income is \$1,000 or more, it is divided by the taxpayer's all source net income on line 27 of Schedule IA 126 ~~nonresident of Iowa~~, and dividing that sum by the taxpayer's total net income. See 701—Chapter 40 to determine a part-year resident's Iowa source net income and total net income. The percentage computed by this procedure is the Iowa income percentage and is entered on line 28 of the Schedule IA 126. The This Iowa income percentage, which is rounded to the nearest tenth of a percent, (e.g., 1.2 percent) for tax years beginning before January 1, 2022, and to the nearest ten-thousandth of a percent (e.g., 1.2345 percent) for tax years beginning on or after January 1, 2022. The Iowa income percentage is then subtracted from 100 percent to arrive at the ~~nonresident~~/part-year resident credit percentage, which is entered on line 29 of Schedule IA 126. The Iowa tax from line 43 of the IA 1040 is then shown on line 30 of Schedule IA 126. The total of the Iowa nonrefundable credits from line 49 of the IA 1040 is entered on line 31 of Schedule IA 126 and is subtracted from the Iowa tax amount on line 30. The tax-after-credits amount on line 32 is next multiplied by the ~~nonresident~~/part-year resident credit percentage from line 28. The amount calculated from this procedure is the ~~nonresident~~/part-year resident credit, which is shown on line 33 of Schedule IA 126 and on line 51 of Form IA 1040 represents the percentage of the individual's total income which was earned outside of Iowa while a nonresident. The part-year resident credit percentage is multiplied by the net Iowa tax to compute the part-year resident credit. For purposes of this subrule, "net Iowa tax" means the Iowa regular income tax after reduction for the nonrefundable credits provided in Iowa Code section 422.12.

EXAMPLE A. 3: A single individual was a resident of Nebraska for the first half of ~~2008~~ 2022 and moved to Iowa on July 1, ~~2008~~ 2022, to accept a job in Des Moines. This individual earned \$20,000 from wages, \$200 from interest, and \$4,000 from a ranch in Nebraska from January 1, ~~2008~~ 2022, through June 30, ~~2008~~ 2022. In the last second half of ~~2008~~ 2022, this person had wages of \$30,000, interest income of \$300, and \$4,000 from the Nebraska ranch. This part-year resident had ~~federal income tax paid in 2008 of \$11,000 and had itemized deductions of \$3,000~~ \$14,000 of allowable deductions.

The part-year resident's ~~all source~~ total net income was \$58,500 and the Iowa source net income was \$34,300, which includes the Iowa wages, the Nebraska ranch income of \$4,000 earned during the individual's period of Iowa residence, as well as the interest income of \$300 earned during that time of the tax year. The Iowa taxable income for the part-year resident for ~~2008~~ 2022 was \$44,500, ~~which~~

REVENUE DEPARTMENT[701](cont'd)

~~included the federal income tax deduction of \$11,000 and itemized deductions of \$3,000 due to allowable deductions of \$14,000 (\$58,500 - \$14,000). The individual's Iowa income percentage was 58.6~~ 58.6325, which was determined by dividing the Iowa source income of \$34,300 by the ~~all-source total income~~ of \$58,500. Subtracting the Iowa income percentage of ~~58.6~~ 58.6325 from 100 percent results in a ~~nonresident/part-year resident credit percentage of 41.4~~ 41.3675. The Iowa tax on total income was \$2,529, which was reduced to \$2,489 after subtraction of the personal exemption credit of \$40 under Iowa Code section 422.12.

When \$2,489 is multiplied by the ~~nonresident/part-year resident percentage of 41.4~~ 41.3675, a ~~nonresident/part-year resident credit of \$1,030~~ is computed for this part-year resident.

EXAMPLE B- 4: A single individual moved from Minnesota to Iowa on July 1, ~~2008~~ 2022. This person ~~had received~~ earned \$5,000 in income from an Iowa farm in ~~March~~ the first half of the tax year and another \$10,000 from this farm in ~~September of 2008~~ the second half of the tax year. This person had \$10,000 in wages from employment in Minnesota in the first half of the year and another \$15,000 in wages from employment in Iowa in the ~~last second~~ second half of ~~2008~~ the tax year. This person had \$2,000 in interest from a Minnesota bank in the first half of the year and \$2,000 in interest from an Iowa bank in the ~~last six months of 2008~~ second half of the tax year. This taxpayer had \$8,000 in federal income tax withheld from wages in 2008 and claimed the standard deduction on both the Iowa and federal income tax returns.

The part-year resident's ~~all-source total net~~ net income was \$44,000 and the Iowa source ~~net~~ net income was \$32,000, which consisted of \$15,000 in wages, \$2,000 in interest income, and \$15,000 in income from the Iowa farm. Since the farm was in Iowa, the ~~all~~ all farm income ~~received in the first half of 2008, including the income received while the individual was not a resident of Iowa, was taxable to Iowa as well as the farm income received while the individual was an Iowa resident.~~ The individual's Iowa taxable income was \$34,250, which was computed after subtracting ~~the federal income tax deduction of \$8,000 and a standard deduction of \$1,750~~ \$9,750 in allowable deductions (\$44,000 - \$9,750). The taxpayer's Iowa income tax liability was \$1,757 after subtraction of a personal exemption credit of \$40 under Iowa Code section 422.12.

The taxpayer's Iowa income percentage was ~~72.7~~ 72.7273, which was computed by dividing the Iowa source ~~net~~ net income of \$32,000 by the ~~all-source total net~~ net income of \$44,000. The ~~nonresident/part-year resident credit percentage was 27.3~~ 27.2727, which was arrived at by subtracting the Iowa income percentage of ~~72.7~~ 72.7273 from 100 percent. The taxpayer's ~~nonresident/part-year resident credit is \$480~~ \$479. This was determined by multiplying the Iowa income tax liability after personal exemption credit amount of \$1,757 by the ~~nonresident/part-year resident percentage of 27.3~~ 27.2727.

This rule is intended to implement Iowa Code section 422.5.

[Filed 10/15/21, effective 12/8/21]

[Published 11/3/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/3/21.

ARC 6029C

REVENUE DEPARTMENT[701]

Adopted and Filed

Rule making related to out-of-state tax credit

The Revenue Department hereby amends Chapter 42, "Adjustments to Computed Tax and Tax Credits," and Chapter 89, "Fiduciary Income Tax," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 422.68.

REVENUE DEPARTMENT[701](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, 2020 Iowa Acts, House File 2641.

Purpose and Summary

This rule making relates to the Iowa out-of-state tax credit against regular Iowa income tax for income tax paid to other jurisdictions on a resident individual's or fiduciary's income that is also taxed by Iowa.

The primary purpose of this rule making is to implement 2020 Iowa Acts, House File 2641, division XVII. That legislation modified the out-of-state tax credit to allow a resident partner, shareholder, or beneficiary to claim certain entity-level income taxes owed and paid by a partnership, S corporation, estate, or trust (i.e., a "pass-through entity") in another jurisdiction in the calculation of the resident's out-of-state tax credit. That legislation also allowed a resident shareholder of a regulated investment company (e.g., mutual fund) to claim certain entity-level foreign income taxes owed and paid by the regulated investment company in the calculation of the resident's out-of-state tax credit.

In general, this rule making provides that resident individuals and fiduciaries who are direct or indirect members of a pass-through entity may include in the calculation of the out-of-state tax credit their pro rata share of entity-level income tax owed and paid by such pass-through entity in another qualifying jurisdiction if the income tax would otherwise qualify for inclusion in the calculation of the out-of-state tax credit, had it been imposed on and paid by the resident, and if the pass-through entity provides certain statements to the resident and to other intermediate pass-through entities in the case of indirect ownership. This rule making also provide rules for regulated investment companies and their resident shareholders.

This rule making also significantly updates, rewrites, or expands other parts of the out-of-state tax credit rule not directly impacted by 2020 Iowa Acts, House File 2641, in order to provide more guidance to taxpayers on the application of the credit. These amendments provide relevant definitions and describe the general application of the credit, the calculation of the credit including the maximum credit calculation, other limitations and considerations for the credit, and supporting documentation required for the taxpayer to prove eligibility for the credit and credit amount.

Finally, this rule making modifies the Iowa income percentage used to calculate the maximum credit so that it is computed to the nearest ten-thousandth of a percent (i.e., four digits to the right of the decimal point) for tax years beginning on or after January 1, 2022. The Iowa income percentage was previously computed to the nearest tenth of a percent (i.e., one digit to the right of the decimal point). This change will result in more accurate credit calculations and will create more uniformity under the Iowa income tax because corporations and other business entities apportion their income using a business activity ratio that is calculated to the nearest ten-thousandth of a percent.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 8, 2021, as **ARC 5886C**. 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 October 15, 2021.

Fiscal Impact

Modifying the maximum credit calculation to compute to the nearest ten-thousandth of a percent instead of the nearest tenth of a percent is expected to result in a minimal increase or decrease to General Fund revenues. The total impact is expected to be less than \$100,000 each year. Apart from that change, this rule making has no fiscal impact to the State of Iowa beyond that of the legislation it is intended to implement. The final fiscal note for 2020 Iowa Acts, House File 2641, division XVII, estimated that

REVENUE DEPARTMENT[701](cont'd)

the out-of-state tax credit changes enacted in that legislation will reduce General Fund revenues in fiscal years 2021 through 2025 by \$4.2 million, \$4.2 million, \$4.3 million, \$4.3 million, and \$4.4 million, respectively.

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on December 8, 2021.

The following rule-making actions are adopted:

ITEM 1. Rescind rule 701—42.6(422) and adopt the following new rule in lieu thereof:

701—42.6(422) Out-of-state tax credits.

42.6(1) Definitions. For purposes of this rule:

“*Foreign country*” means any country, other than the United States, and any political subdivision of that country.

“*Income tax*” means any direct tax imposed upon a taxpayer and measured by the taxpayer's income for a specified period of time. The out-of-state jurisdiction's characterization of the tax is not controlling in the department's determination of whether a tax is an income tax. Fees, penalty, and interest paid in connection with an income tax do not qualify. For purposes of this rule, the term “income tax” does not include a minimum tax imposed on preference items.

“*Pass-through entity*” means an entity taxed as a partnership for federal tax purposes, an S corporation, an estate, or a trust other than grantor trusts.

“*Regulated investment company*” means any domestic corporation that meets the requirements of Section 851 of the Internal Revenue Code and that has made a valid election under Section 853 of the Internal Revenue Code to have its shareholders' pro rata share of entity-level income tax paid by the electing corporation be deemed to have been paid by its shareholders. The term “regulated investment company” includes, but is not limited to, a mutual fund.

“*State*” means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any political subdivision thereof.

“*Tiered owner*” means an owner or beneficiary of a pass-through entity that is itself a pass-through entity.

42.6(2) General application.

a. Residents. Iowa residents, including part-year residents, are allowed an out-of-state tax credit against the resident's Iowa income tax liability for income taxes owed and paid by the resident to another state or foreign country on income for which all of the following are true:

REVENUE DEPARTMENT[701](cont'd)

(1) The income was derived from sources within the other state or foreign country. In determining whether income is derived from sources within that other state or foreign country, Iowa statutes and rules on the sourcing of a nonresident's income shall govern.

(2) The income is subject to Iowa income tax. Income tax imposed by another state or foreign country on income that is not subject to Iowa income tax does not qualify for the credit.

(3) The income was earned while the taxpayer was an Iowa resident and is included on the resident's Iowa income tax return. The credit is allowable only if the taxpayer files an Iowa income tax return as a resident or part-year resident.

b. Nonresidents. Nonresidents of Iowa shall not claim the out-of-state tax credit.

42.6(3) Rule for pass-through entities.

a. Direct owners.

(1) If the Iowa resident is a direct partner, shareholder, or beneficiary of a pass-through entity that owed and paid entity-level income tax, or income tax on a composite return basis, to another state or foreign country on income derived from sources in that state or foreign country, the resident is allowed to treat the resident's pro rata share of that income tax as paid by the resident for purposes of the out-of-state tax credit, provided the resident's pro rata share of that income flows through to the resident and meets the requirements of paragraph 42.6(2) "a."

(2) The entity-level income tax or composite income tax paid to the other state or foreign country is the net state or foreign income tax actually owed and paid for the tax year on income taxed by that state or foreign country, as properly computed on the pass-through entity's income tax return or composite return (not a withholding return) in the other state or foreign country after reduction for all nonrefundable credits provided to the pass-through entity. Paragraph 42.6(6) "b" provides an additional limitation if the Iowa resident receives a refundable credit in the other state or foreign country for the Iowa resident's share of the income tax owed and paid by the pass-through entity. The resident's pro rata share of entity-level income tax or composite income tax paid by the pass-through entity shall be in the same proportion as the resident's pro rata share of income derived from sources in that state or foreign country, as properly reported on the entity's return in the other state or foreign country.

(3) To qualify, the pass-through entity must provide to the resident a statement identifying the jurisdiction and the resident's pro rata share of the income, income tax liability, and income tax paid in that jurisdiction.

EXAMPLE 1: Partnership W earns \$2,000 of income in state A, which imposes an entity-level income tax directly on the partnership. Partnership W pays \$100 of income tax to state A. Partnership W is owned 50 percent by Partnership X and 50 percent by individual Y, a resident of Iowa. Individual Y receives a statement from Partnership W showing that Partnership W earned \$2,000 of income and paid \$100 of entity-level income tax to state A and that individual Y's pro rata share of that income and entity-level income tax is \$1,000 and \$50, respectively. If that \$1,000 of income from Partnership W is subject to Iowa income tax and included on individual Y's Iowa income tax return as earned while an Iowa resident, individual Y will be entitled to treat the \$50 of income tax paid by Partnership W to state A as paid by individual Y in the computation of Y's out-of-state tax credit.

b. Indirect owners.

(1) If the Iowa resident is an indirect partner, shareholder, or beneficiary of a pass-through entity that paid entity-level income tax, or income tax on a composite return basis, to another state or foreign country on income derived from sources in that state or foreign country, the resident is allowed to treat the resident's pro rata share of that income tax as paid by the resident for purposes of the out-of-state tax credit if both of the following requirements are satisfied:

1. The tiered owner reduces the amount of the paying pass-through entity's income tax that the tiered owner reports to its partners, shareholders, or beneficiaries by the amount of any credit available from that other state or foreign country to the tiered owner for the tax liability of the paying pass-through entity.

2. The resident's pro rata share of that income flows through one or more tiered owners to the resident and meets the requirements of paragraph 42.6(2) "a."

REVENUE DEPARTMENT[701](cont'd)

(2) The entity-level income tax or composite income tax paid to the other state or foreign country is the net state or foreign income tax actually owed and paid for the tax year on income taxed by that state or foreign country, as properly computed on the pass-through entity's income tax return or composite tax return (not a withholding return) in the other state or foreign country, after reduction for all nonrefundable credits provided to the pass-through entity, and after further reduction by a tiered owner for any credits provided by that other state or foreign country to the tiered owner for the tax liability of the paying pass-through entity. Paragraph 42.6(6) "b" provides an additional limitation if the Iowa resident receives a refundable credit in the other state or foreign country for the Iowa resident's share of the income tax owed and paid by a pass-through entity. The resident's pro rata share of entity-level income tax or composite income tax paid by the pass-through entity shall be in the same proportion as the resident's pro rata share of income derived from sources in that state or foreign country, as properly reported on the entity's return in the other state or foreign country, after flowing through one or more tiered pass-through entities to the resident.

(3) To qualify, the paying pass-through entity must provide to the tiered owner a statement identifying the jurisdiction and the tiered owner's pro rata share of the income, income tax liability, and income tax paid in that jurisdiction. The tiered owner, in turn, must provide the indirect partner, shareholder, or beneficiary with a statement that includes all of the following information:

1. The jurisdiction to which income tax was paid; the paying pass-through entity and any other tiered owner through which the income flowed; and the indirect partner's, shareholder's, or beneficiary's pro rata share of the paying pass-through entity's income.

2. The indirect partner's, shareholder's, or beneficiary's pro rata share of the paying pass-through entity's income tax liability and income tax paid to the other jurisdiction after reduction for any credit available to the tiered owner for the tax liability of the paying pass-through entity. If no such credit was provided to the tiered owner, the statement must include a declaration from the tiered owner to that effect.

EXAMPLE 2: Assume the same facts as Example 1. Partnership X (a tiered owner) receives a statement from Partnership W which shows that W earned \$2,000 of income in state A and paid \$100 of entity-level income tax to state A and that Partnership X's pro rata share of that income and entity-level income tax is \$1,000 and \$50, respectively. Partnership X is not eligible for a credit in state A for its share of the entity-level income tax paid by Partnership W. Partnership X is owned 50 percent by individual Z, a resident of Iowa. Individual Z then receives a statement from Partnership X indicating that Partnership X was not eligible for a credit for the tax paid by Partnership W, that Z's pro rata share of Partnership W's income taxed by state A is \$500, and that Z's pro rata share of Partnership W's income tax imposed by and paid to state A is \$25. If that \$500 of income from Partnership W flows through Partnership X to individual Z, is subject to Iowa income tax, and is included on Z's Iowa income tax return as earned while an Iowa resident, Z will be entitled to treat the \$25 of income tax paid by Partnership W to state A as paid by Z in the computation of Z's out-of-state tax credit.

EXAMPLE 3: Assume the same facts as Example 2, except that Partnership X (a tiered owner) is eligible for a \$50 credit in state A for its share of the entity-level income tax paid by Partnership W to state A. Partnership X must reduce its share of Partnership W's entity-level income tax (\$50) that it can report to its partners by the amount of the credit provided by state A for that tax (\$50). Therefore, Partnership X cannot pass Partnership W's entity-level income tax through to individual Z, and Z cannot treat a pro rata share of Partnership W's entity-level income tax as paid by Z. However, if Partnership X is itself subject to and pays an entity-level income tax in state A, it may be allowed to pass through, and individual Z may be allowed to treat as paid by Z a pro rata share of the entity-level income tax paid by Partnership X in state A in the same manner as described in paragraph 42.6(3) "a."

42.6(4) Rule for regulated investment companies. If the Iowa resident is a shareholder of a regulated investment company making an election under Section 853 of the Internal Revenue Code, the resident shareholder is allowed an out-of-state tax credit for the resident shareholder's pro rata share of entity-level income tax paid to a foreign country or possession of the United States by the regulated investment company and treated as paid by the resident shareholder under Section 853 of the Internal Revenue Code if the income taxed by the foreign country or possession of the United States is also subject to tax in Iowa and is included on the resident shareholder's Iowa income tax return as earned

REVENUE DEPARTMENT[701](cont'd)

while an Iowa resident. To qualify, the regulated investment company must provide to the resident shareholder a statement identifying the jurisdiction and the resident shareholder's pro rata share of the income, income tax liability, and income tax paid in that jurisdiction.

EXAMPLE 4: Individual D is a resident of Iowa and a shareholder of a mutual fund that paid income tax to foreign jurisdictions and that made an election under Section 853 of the Internal Revenue Code. On the annual, year-end tax statement, the mutual fund reported \$2,000 of income to individual D and \$10 of foreign tax paid with respect to D's income. If that \$2,000 of income from the mutual fund is subject to Iowa income tax and included on individual D's Iowa income tax return as earned while an Iowa resident, D will be entitled to treat the \$10 of income tax paid by the mutual fund to the foreign jurisdictions as paid by D in the computation of D's out-of-state tax credit.

42.6(5) Computing the out-of-state tax credit—preliminary calculation.

a. Required form. The tax credit must be computed on the IA 130, Iowa Out-of-State Tax Credit Schedule. Married taxpayers filing separate Iowa returns, or filing separately on a combined Iowa return, must complete a separate IA 130 for each spouse.

b. Computed separately by jurisdiction. The tax credit must be computed separately for each out-of-state jurisdiction. A separate IA 130 is required for each out-of-state jurisdiction. However, separate computations and separate IA 130s are not required for foreign income taxes paid by a regulated investment company.

c. Computed separately by income tax type. The tax credit must be computed separately for regular income tax and special lump-sum distribution tax. If the taxpayer was assessed a special tax on a lump-sum distribution by another state or foreign country, compute the tax credit separately under these rules using only the lump-sum distribution and lump-sum distribution tax imposed in Iowa and imposed in the other state or foreign country. A lump-sum distribution taxed by another state or foreign country shall not be included as part of gross income. A minimum tax or income tax imposed on preference items derived from sources in another state or foreign country are not eligible for the out-of-state tax credit under this rule. For rules on the out-of-state tax credit with respect to minimum tax paid, see rule 701—42.7(422).

d. Full-year Iowa residents. For a taxpayer who is an Iowa resident for the entire tax year, the income tax paid to the other state or foreign country is the sum of the following amounts:

(1) Income tax treated as paid by the resident under subrules 42.6(3) and 42.6(4). The income tax shall be treated as paid by the resident for the tax year that the out-of-state pass-through income is considered taxable Iowa income to the resident.

(2) The net state or foreign income tax actually owed and paid by the resident for the tax year on income qualifying under paragraph 42.6(2) "a," as properly computed on the resident's income tax return in the other state or foreign country, less all nonrefundable credits provided to the resident, and less any refundable credits provided to the resident for entity-level income taxes or composite income taxes paid by a pass-through entity. See Example 5 below.

e. Part-year Iowa residents. A taxpayer who is a part-year resident of Iowa may only claim the out-of-state tax credit against the taxpayer's Iowa income tax liability for income tax paid to another state or foreign country on income qualifying under paragraph 42.6(2) "a" that is earned during the period of the tax year that the taxpayer was an Iowa resident. The income tax paid to the other state or foreign country is the sum of the following amounts:

(1) Income tax treated as paid by the resident under subrules 42.6(3) and 42.6(4) on income earned during the period of the tax year that the taxpayer was an Iowa resident. The income tax shall be treated as paid by the resident for the tax year that the out-of-state pass-through income is considered taxable Iowa income.

(2) The net state or foreign income tax actually owed and paid by the taxpayer for the tax year on income qualifying under paragraph 42.6(2) "a" that was earned during the period of the tax year that the taxpayer was an Iowa resident, as properly computed on the resident's income tax return in the other state or foreign country, less all nonrefundable credits provided to the resident, and less any refundable credits

REVENUE DEPARTMENT[701](cont'd)

provided to the resident for entity-level income taxes or composite income taxes paid by a pass-through entity. See Example 6 below.

42.6(6) Computing the out-of-state tax credit—additional limitations and considerations.

a. Maximum credit. The out-of-state tax credit cannot exceed the amount of Iowa income tax that would have been imposed on the same income which was taxed by the other state or foreign country. The maximum out-of-state tax credit must be computed according to the formula in this paragraph. If gross income is subject to tax in a jurisdiction at more than one level (i.e., at the pass-through entity level and at the individual level), it shall only be counted once for purposes of computing the maximum credit.

(1) Full-year Iowa residents. Gross income qualifying under paragraph 42.6(2) “a” and taxed by the other state or foreign country shall be divided by the total gross income of the Iowa resident taxpayer. This quotient, multiplied by the net Iowa tax as determined on the total gross income of the taxpayer as if entirely earned in Iowa, shall be the maximum tax credit. For tax years beginning before January 1, 2022, this quotient shall be computed as a percentage rounded to the nearest tenth of a percent (e.g., 1.2 percent). For tax years beginning on or after January 1, 2022, this quotient shall be computed as a percentage rounded to the nearest ten-thousandth of a percent (e.g., 1.2345 percent). For purposes of this subparagraph, “net Iowa tax” means the Iowa regular income tax after reduction for the nonrefundable credits provided in Iowa Code section 422.12.

EXAMPLE 5: Taxpayer A was an Iowa resident for the entire tax year but commuted across the border and worked in state Z. Taxpayer A had wages of \$30,000 in state Z. Taxpayer A filed an income tax return in state Z reporting the \$30,000 of wages and had state Z income tax liability of \$500, which is A’s preliminary out-of-state credit under subrule 42.6(5). Taxpayer A also had income of \$10,000 from rental of an Iowa farm and another \$10,000 in interest income from a personal savings account. Taxpayer A’s total gross income for the tax year was \$50,000. Thus, 60 percent ($\$30,000 \div \$50,000$) of Taxpayer A’s income was earned in state Z. Taxpayer A’s net Iowa tax on total gross income was \$817, which results in a maximum out-of-state credit of \$490 ($\$817 \times .60$). Therefore, the out-of-state tax credit allowed is \$490, because the maximum credit of \$490 was less than the preliminary credit of \$500.

(2) Part-year Iowa residents. Gross income qualifying under paragraph 42.6(2) “a” that was earned during the period of the tax year that the taxpayer was an Iowa resident and taxed by the other state or foreign country shall be divided by the total gross income of the Iowa taxpayer earned while an Iowa resident or otherwise sourced to Iowa. This quotient, multiplied by the net Iowa tax as determined on the total gross income of the taxpayer as if entirely earned in Iowa, shall be the maximum tax credit. For tax years beginning before January 1, 2022, this quotient shall be computed as a percentage rounded to the nearest tenth of a percent (e.g., 1.2 percent). For tax years beginning on or after January 1, 2022, this quotient shall be computed as a percentage rounded to the nearest ten-thousandth of a percent (e.g., 1.2345 percent). For purposes of this subparagraph, “net Iowa tax” means the Iowa regular income tax after reduction for the nonrefundable credits provided in Iowa Code section 422.12 and after reduction for the nonresident and part-year resident credit in rule 701—42.5(422).

EXAMPLE 6: Taxpayer B was a part-year Iowa resident for the tax year. Taxpayer B resided in state Z for the first six months of the year and moved to Iowa on July 1 but continued to commute across the border and work in state Z. Taxpayer B was employed in state Z for the entire year and had wages of \$30,000 in state Z. Taxpayer B filed an income tax return in state Z reporting the \$30,000 of wages and had state Z income tax liability of \$1,000. The amount of gross income taxed by state Z while taxpayer B was an Iowa resident was \$15,000 (50 percent of the \$30,000 of state Z wages). Since 50 percent of the income earned in state Z was earned while taxpayer B was a resident of Iowa, the preliminary out-of-state credit under subrule 42.6(5) was \$500 ($\$1,000 \times .50$). Taxpayer B also had \$10,000 in farm rental income from farmland located in Iowa. Taxpayer B’s gross income earned while an Iowa resident and otherwise sourced to Iowa was \$25,000 ($\$15,000$ of wages + $\$10,000$ farm rental income). Thus, 60 percent of the gross income was earned in state Z while an Iowa resident ($\$15,000 \div \$25,000$). Taxpayer B’s net Iowa tax on total gross income was \$1,094, which results in a maximum out-of-state credit of \$656 ($\$1,094 \times .60$). Therefore, the out-of-state tax credit allowed is \$500, because the preliminary credit of \$500 was less than the maximum credit of \$656.

REVENUE DEPARTMENT[701](cont'd)

b. Refund attributable to credit for entity-level income tax or composite income tax paid by a pass-through entity. If the resident claims a refundable tax credit in another state or foreign country for entity-level income tax or composite income tax paid by a pass-through entity, that refundable credit reduces the resident's income tax liability in that state or foreign country as described in subparagraphs 42.6(5) "d"(2) and 42.6(5) "e"(2). However, any refund attributable to that refundable credit also reduces the amount of income tax treated as paid by the resident under subrules 42.6(3) and 42.6(4). In computing this credit reduction, the refundable credit for entity-level income tax or composite income tax paid by a pass-through entity shall be applied on the other state's or foreign country's income tax return after all nonrefundable credits, but before any other refundable credit. The credit reduction is required whether the resident receives the refund or applies the amount to a different tax liability or tax period.

EXAMPLE 7: Individual B, a resident of Iowa and a 50 percent owner of Partnership P doing business in state Z, receives a statement from Partnership P in accordance with subparagraph 42.6(3) "a"(3) showing that P earned income in and paid entity-level income tax to state Z and individual B's pro rata share of that income and that entity-level income tax is \$5,000 and \$250, respectively. However, individual B also receives a \$250 refundable credit from state Z for B's share of the entity-level income tax paid by Partnership P. Individual B files an individual income tax return in state Z to report B's pro rata share of income from Partnership P and calculates a tentative income tax of \$200, before application of the refundable credit. Individual B applies the refundable tax credit against that tentative income tax and calculates an income tax liability of \$0 and a refund of \$50 from state Z. Therefore, individual B must reduce the \$250 of entity-level income tax treated as paid by B under subrule 42.6(3) to \$200 (\$250 - \$50). Individual B files an Iowa income tax return which includes the \$5,000 of income from Partnership P earned in state Z and calculates a preliminary out-of-state tax credit under subrule 42.6(5) of \$200.

c. Taxpayers claiming the S corporation apportionment tax credit. A taxpayer who is a shareholder of an S corporation and who has income that was apportioned outside of Iowa through a claim to the S corporation apportionment tax credit is not permitted to claim the out-of-state tax credit on the same S corporation income. Income tax paid by the resident or a pass-through entity with respect to the S corporation income shall not be included in the resident's preliminary credit calculation in paragraph 42.6(5) "d" or "e." Gross income from the S corporation shall not be included in the resident's maximum credit calculation in paragraph 42.6(6) "a."

d. Married taxpayers using a different filing status in the other state or foreign country. If married taxpayers use a separate filing status in the other state or foreign country, but file jointly for Iowa tax purposes, the taxpayers must combine both spouses' income and income tax paid in the other state or foreign country for purposes of computing the out-of-state tax credit. If married taxpayers file jointly in the other state or foreign country, but file separate Iowa returns, or separately on a combined Iowa return, the taxpayers must prorate the income tax paid in the other state or foreign country according to each spouse's respective gross income earned in that state or foreign country.

e. Tax on income that does not flow through to resident. Entity-level income tax or composite income tax paid by a pass-through entity on income that does not flow through to the Iowa resident and meet the requirements of paragraph 42.6(2) "a" does not qualify for the out-of-state tax credit. For example, a LIFO recapture tax installment paid by an S corporation in another state would not qualify because that tax is measured by the income of the entity in the last tax year it was a C corporation, when such income did not flow through to the shareholders. Also, income tax paid by a trust in another state on income not distributed to the beneficiaries would not qualify because that income did not flow through to the beneficiaries. These examples are not intended to be exhaustive.

f. Recalculating credit following adjustments in the other jurisdiction. If the taxpayer or the taxpayer's pass-through entity amends the amount of income or income tax liability reported and paid to the other state or foreign country, either through an amended return, audit, or otherwise, the taxpayer shall file an amended Iowa return and recalculate the allowable out-of-state tax credit. Any refund must be requested by the later of three years after the due date of the return, or one year after payment of the tax, as prescribed in Iowa Code section 422.73(2) "a." Iowa law does not provide additional time to request a refund following an audit by another state or foreign country.

REVENUE DEPARTMENT[701](cont'd)

g. Nonrefundable and nontransferable. The out-of-state tax credit cannot exceed the resident's tax liability; thus, no amount is eligible to be carried forward to any future tax year. The credit may not be transferred to any other person.

42.6(7) Claiming the out-of-state tax credit—supporting documentation. To claim the out-of-state tax credit, the taxpayer claiming the credit must submit the following to the department with the return or upon request as indicated below:

a. Out-of-state tax return. A copy of the income tax return filed with the other state or foreign country must be submitted. The department may further request a copy of the return which has been certified by the tax authority of that state or foreign country and showing thereon that the income tax assessed has been paid to them.

b. Iowa income tax return. To claim the out-of-state tax credit, a taxpayer must file an Iowa income tax return for the tax year for which the credit is claimed. A taxpayer must file an Iowa income tax return to claim the out-of-state tax credit even if the taxpayer would not otherwise have an obligation to file an Iowa income tax return for the year for which the credit is claimed.

c. Iowa out-of-state tax credit schedule. An IA 130, Iowa Out-of-State Tax Credit Schedule, must be submitted for the tax year for which the credit is claimed.

d. Pass-through entity statements. A taxpayer who is claiming an out-of-state tax credit for entity-level income tax or composite income tax paid by a pass-through entity must submit a statement from the pass-through entity that meets the requirements of subrule 42.6(3). The pass-through entity's actual income tax returns must be submitted to the department upon request. A taxpayer who is claiming an out-of-state tax credit for entity-level income tax paid by a regulated investment company must submit a statement from the regulated investment company that meets the requirements of subrule 42.6(4).

e. Additional foreign income tax documentation. A taxpayer who is claiming the out-of-state tax credit for income taxes paid to a foreign country must provide the department with a copy of federal Form 1116, Foreign Tax Credit, if that form was required to be submitted with the taxpayer's federal income tax return. This submission requirement does not mean that all amounts on federal Form 1116 qualify for the Iowa out-of-state tax credit. Additionally, if the income tax was paid in foreign currency, the taxpayer shall include a detailed explanation of how the taxpayer figured the conversion rate. The conversion rate is the rate of exchange in effect on the day the taxpayer paid the foreign income tax.

f. Proof of payment. Upon request, the taxpayer must provide the department with a photocopy, or other similar reproduction, of either:

- (1) The receipt issued by the other state or foreign country for payment of the tax, or
- (2) The canceled check (both sides) with which the tax was paid to the other state or foreign country together with a statement of the amount and kind (e.g., wage or salary income, rental income, business income) of total income on which such tax was paid.

This rule is intended to implement Iowa Code section 422.8.

ITEM 2. Amend subrule 89.8(11) as follows:

89.8(11) Credits against the tax.

a. No change.

b. Credit for tax paid to another state or foreign country. Iowa Code section 422.8 grants Iowa situs trusts and estates of Iowa resident decedents, which have income derived from sources in another state or foreign country, a credit against the Iowa tax for the income tax paid to the state or foreign country where the income was derived. ~~To be eligible for the credit, the income must have been includable for income tax purposes both in Iowa and the other state or foreign country. The credit allowable against the Iowa tax is limited to the lesser of: (1) the tax paid to the other state or foreign country on the income, or (2) the Iowa income tax paid on the foreign source income. The Iowa income tax paid on the foreign source income is computed by multiplying the Iowa computed tax, less the personal exemption credit, by a fraction of which the foreign source income included in the Iowa gross income is the numerator and the total Iowa gross income is the denominator. The resulting amount is the Iowa tax paid on foreign source income. Any tax paid to another state or foreign country in excess of the Iowa credit allowable is not~~

REVENUE DEPARTMENT[701](cont'd)

~~refundable.~~ The credit is computed in the same manner as a full-year resident under rules 701—42.6(422) and 701—42.7(422). Foreign situs trusts and estates of foreign decedents are not allowed a credit against the Iowa tax for the income tax paid another state or foreign country on Iowa source income. ~~This rule~~ Rule 701—42.6(422) as applied to an Iowa situs trust or estate is illustrated by the following example:

Decedent A died a resident of Webster City, Iowa, on February 15, ~~1997~~. Decedent A at the time of death owned income-producing property both in Iowa and the state of Missouri. For the short taxable year ending December 31, ~~1997~~, A's estate had the following income and expenses:

Interest	\$ 5,000
Dividends	7,500
Iowa farm income	20,000
Missouri farm income	10,000
Iowa gross income	\$ 42,500
Less allowable deductions	8,000
Iowa taxable income	\$ 34,500
Iowa computed tax	\$2,587.87
Less personal credit	40.00
Tax subject to credit for foreign taxes paid	\$2,547.87
<u>Tentative credit for tax paid to Missouri</u>	<u>\$ 413.00</u>
<u>Maximum credit</u>	<u>\$ 604.20</u>
Less credit for tax paid Missouri <u>Lesser of tentative credit or maximum credit</u>	413.00
Iowa tax due	\$2,134.87

A's estate paid \$413.00 income tax to the state of Missouri on the \$10,000 Missouri farm income. This is A's tentative credit.

The ~~Iowa tax~~ maximum credit on the foreign source income is \$604.20 computed as follows:

$$\frac{\text{Foreign income included in gross income } \$10,000}{\text{Total Iowa gross income } \$42,500} \times \$2,547.87^* = \$604.20$$

*\$2,547.87 is the Iowa computed tax less the \$40.00 personal credit.

The allowable out-of-state tax credit for taxes paid the state of Missouri is \$413.00, because ~~it the~~ \$413.00 of income tax paid to Missouri (tentative credit) is less than the ~~Iowa tax paid on the Missouri income~~ maximum credit of \$604.20. If the Missouri tax paid had been greater than the ~~Iowa tax on the Missouri income~~ maximum credit, the allowable credit would have been the ~~Iowa tax on the Missouri income~~ maximum credit.

~~See 701—subrule 42.6(3) for the computation of the credit allowed Iowa resident individuals for income tax paid to another state or foreign country.~~

c. to e. No change.

[Filed 10/15/21, effective 12/8/21]

[Published 11/3/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/3/21.

ARC 6030C**REVENUE DEPARTMENT[701]****Adopted and Filed****Rule making related to deduction of credits**

The Revenue Department hereby amends Chapter 42, “Adjustments to Computed Tax and Tax Credits,” Chapter 52, “Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits,” and Chapter 58, “Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 422.68.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 422.

Purpose and Summary

This rule making updates the Department’s rules that dictate the order in which Iowa income and franchise tax credits must be deducted by Iowa taxpayers. These amendments strike from the deduction list recently repealed tax credits and add newly enacted tax credits such as the Beginning Farmer Tax Credit, the Hoover Presidential Library Tax Credit, and the Renewable Chemical Production Tax Credit. Updates are also made to certain tax credits that have experienced a change in name, claim period, or claim procedure, or that were previously grouped together with other similar tax credits on the list.

These amendments change the order of deduction for the alternative minimum tax credit in tax year 2021 for corporations and financial institutions, and in tax year 2023 for individuals, because that is the final tax year that credit may be claimed for those tax types, so the carryforward period is reduced to zero. This change will allow the alternative minimum tax credit to be claimed in 2021 or 2023, as applicable, before other tax credits with a carryforward period.

These amendments also provide for the order in which tax credits carried forward from a previous tax year must be deducted. Finally, this rule making adopts a rule regarding order of deduction for tax credits claimed under the Iowa franchise tax.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 8, 2021, as **ARC 5883C**. 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 October 15, 2021.

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.

REVENUE DEPARTMENT[701](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 701—7.28(17A).

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on December 8, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend rule 701—42.44(422) as follows:

701—42.44(422) Deduction of credits.

42.44(1) Sequencing of credit deductions. The credits against computed tax set forth in Iowa Code sections 422.5, 422.8, 422.10 through 422.12C, 422.12N, and 422.110 shall be claimed in the following sequence:

- ~~1. a.~~ Personal exemption credit.
- ~~2. b.~~ Tuition and textbook credit.
- ~~3. c.~~ Volunteer fire fighter, volunteer emergency medical services personnel and reserve peace officer tax credit.
4. d. Nonresident and part-year resident credit.
- e. Out-of-state tax credit.
- ~~5. f.~~ Franchise tax credit.
- ~~6. g.~~ S corporation apportionment credit.
- h. Alternative minimum tax credit (for tax years beginning during 2023 only).
- i. Historic preservation tax credit (when the taxpayer has elected that the credit be nonrefundable under Iowa Code section 404A.2(4)).
- ~~7. j.~~ School tuition organization tax credit.
- ~~8. k.~~ ~~Venture capital tax credits (excluding redeemed Iowa fund of funds tax credit).~~ Innovation fund investment tax credit.
- ~~9. l.~~ Endow Iowa tax credit.
- ~~10.~~ ~~Film qualified expenditure tax credit.~~
- ~~11.~~ ~~Film investment tax credit.~~
- ~~12.~~ m. Redevelopment tax credit.
- ~~13.~~ n. From farm to food donation tax credit.
- ~~14.~~ o. Workforce housing tax credit.
- p. Hoover presidential library tax credit.
- ~~15.~~ ~~q.~~ ~~Investment~~ Enterprise zone investment tax credit.
- r. High quality jobs investment tax credit.
- ~~16.~~ s. Wind energy production tax credit.
- ~~17.~~ t. Renewable energy tax credit.
- ~~18.~~ ~~Redeemed Iowa fund of funds tax credit.~~
- ~~19.~~ u. New jobs tax credit.
- v. Beginning farmer tax credit.
- ~~20.~~ ~~Economic development region revolving fund tax credit.~~

REVENUE DEPARTMENT[701](cont'd)

- 21. w. Agricultural assets transfer tax credit.
- 22. x. Custom farming contract tax credit.
- 23. y. Geothermal heat pump tax credit.
- 24. z. Solar energy system tax credit.
- 25. aa. Charitable conservation contribution tax credit.
- 26. ab. Alternative minimum tax credit (for tax years beginning before January 1, 2023).
- 27. ac. Historic preservation and cultural and entertainment district tax credit (when the taxpayer has elected that the credit be refundable under Iowa Code section 404A.2(4)).
- 28. ad. ~~Ethanol promotion tax credit.~~ High quality jobs third-party developer tax credit.
- 29. ae. Research activities credit.
- 30. ~~Out of state tax credit.~~
- 31. af. Child and dependent care tax credit or early childhood development tax credit.
- 32. ag. Motor fuel tax credit.
- 33. ah. Claim of right credit (if elected in accordance with rule 701—38.18(422)).
- 34. ~~Wage benefits tax credit.~~
- ai. Qualifying business investment tax credit (also known as angel investor tax credit).
- 35. aj. Adoption tax credit.
- 36. ak. E-85 gasoline promotion tax credit.
- 37. al. Biodiesel blended fuel tax credit.
- 38. am. E-15 plus gasoline promotion tax credit.
- 39. an. Earned income tax credit.
- 40. ao. ~~Iowa taxpayers trust fund~~ Renewable chemical production tax credit.
- 41. ap. Estimated payments, payment with vouchers, and withholding tax.

42.44(2) Order of credits carried forward from a previous tax year. A credit carried forward from a previous tax year shall be applied against computed tax before a credit earned under the same credit program in the current tax year. However, a credit carried forward from a previous tax year cannot be applied against computed tax before a credit earned under a different credit program in a later year that appears before it in the sequence in subrule 42.44(1). For example, a school tuition organization tax credit awarded in the current tax year must be applied against computed tax before a renewable energy tax credit carried forward from a previous tax year.

This rule is intended to implement Iowa Code sections 422.5, 422.8, 422.10, 422.11, 422.11A, 422.11B, 422.11D, 422.11E, 422.11F, 422.11H, 422.11I, 422.11J, 422.11L, 422.11M, 422.11N, 422.11O, 422.11P, 422.11Q, 422.11R, 422.11S, 422.11V, 422.11W, 422.11Y, 422.11Z, 422.12, 422.12B, 422.12C and 422.110 and 2014 Iowa Acts, House Files 2448 and 2468.

ITEM 2. Amend rule 701—52.12(422) as follows:

701—52.12(422) Deduction of credits.

52.12(1) Sequencing of credit deductions. The credits against computed tax set forth in Iowa Code sections 422.33 and 422.110 shall be claimed in the following sequence.

- 1. a. Franchise tax credit.
- b. Alternative minimum tax credit (for tax years beginning during 2021 only).
- c. Qualifying business investment tax credit (also known as angel investor tax credit).
- d. Historic preservation tax credit (when the taxpayer has elected that the credit be nonrefundable under Iowa Code section 404A.2(4)).
- 2. e. School tuition organization tax credit.
- 3. f. ~~Venture capital tax credit (excluding redeemed Iowa fund of funds tax credit).~~ Innovation fund investment tax credit.
- 4. g. Endow Iowa tax credit.
- 5. ~~Film qualified expenditure tax credit.~~
- 6. ~~Film investment tax credit.~~
- 7. h. Redevelopment tax credit.
- 8. i. From farm to food donation tax credit.

REVENUE DEPARTMENT[701](cont'd)

- ~~9. *j.* Workforce housing tax credit.~~
 - ~~k. Hoover presidential library tax credit.~~
 - ~~10. *l.* ~~Investment~~ Enterprise zone tax credit.~~
 - ~~m. High quality jobs investment tax credit.~~
 - ~~11. *n.* Wind energy production tax credit.~~
 - ~~12. *o.* Renewable energy tax credit.~~
 - ~~13. Redeemed Iowa fund of funds tax credit.~~
 - ~~14. *p.* New jobs tax credit.~~
 - ~~q. Beginning farmer tax credit.~~
 - ~~15. Economic development region revolving fund tax credit.~~
 - ~~16. *r.* Agricultural assets transfer tax credit.~~
 - ~~17. *s.* Custom farming contract tax credit.~~
 - ~~18. *t.* Solar energy system tax credit.~~
 - ~~19. *u.* Charitable conservation contribution tax credit.~~
 - ~~20. *v.* Alternative minimum tax credit (for tax years beginning before January 1, 2021, only).~~
 - ~~21. *w.* Historic preservation and cultural and entertainment district tax credit (when the taxpayer has elected that the credit be refundable under Iowa Code section 404A.2(4)).~~
 - ~~22. Corporate tax credit for certain sales tax paid by developer.~~
 - ~~x. High quality jobs third-party developer tax credit.~~
 - ~~23. Ethanol promotion tax credit.~~
 - ~~24. *y.* Research activities credit.~~
 - ~~25. *z.* Assistive device tax credit.~~
 - ~~26. *aa.* Motor fuel tax credit.~~
 - ~~27. Wage benefits tax credit.~~
 - ~~28. *ab.* E-85 gasoline promotion tax credit.~~
 - ~~29. *ac.* Biodiesel blended fuel tax credit.~~
 - ~~30. *ad.* E-15 plus gasoline promotion tax credit.~~
 - ~~*ae.* Renewable chemical production tax credit.~~
 - ~~31. *af.* Estimated tax and payment with vouchers.~~
- 52.12(2) Order of credits carried forward from a previous tax year. A credit carried forward from a previous tax year shall be applied against computed tax before a credit earned under the same credit program in the current tax year. However, a credit carried forward from a previous tax year cannot be applied against computed tax before a credit awarded under a different credit program in a later year that appears before it in the sequence in subrule 52.12(1). For example, a school tuition organization tax credit awarded in the current tax year must be applied against computed tax before a renewable energy tax credit carried forward from a previous tax year.

This rule is intended to implement Iowa Code sections 422.33, 422.91 and 422.110.

ITEM 3. Adopt the following **new** rule 701—58.24(422):

701—58.24(422) Deduction of credits.

58.24(1) Sequencing of credit deductions. The credits against computed tax set forth in Iowa Code section 422.60 shall be claimed in the following sequence.

- a.* Alternative minimum tax credit (for tax years beginning during 2021 only).
- b.* Qualifying business investment tax credit (also known as angel investor tax credit).
- c.* Historic preservation tax credit (when the taxpayer has elected that the credit be nonrefundable under Iowa Code section 404A.2(4)).
- d.* Innovation fund investment tax credit.
- e.* Endow Iowa tax credit.
- f.* Redevelopment tax credit.
- g.* Workforce housing tax credit.
- h.* Hoover presidential library tax credit.
- i.* Enterprise zone tax credit.

REVENUE DEPARTMENT[701](cont'd)

- j.* High quality jobs investment tax credit.
- k.* Wind energy production tax credit.
- l.* Renewable energy tax credit.
- m.* Solar energy system tax credit.
- n.* Alternative minimum tax credit (for tax years beginning before January 1, 2021, only).
- o.* Historic preservation tax credit (when the taxpayer has elected that the credit be refundable under Iowa Code section 404A.2(4)).
- p.* High quality jobs third-party developer tax credit.
- q.* Estimated tax and payment with vouchers.

58.24(2) *Order of credits carried forward from a previous tax year.* A credit carried forward from a previous tax year shall be applied against computed tax before a credit earned under the same credit program in the current tax year. However, a credit carried forward from a previous tax year cannot be applied against computed tax before a credit awarded under a different credit program in a later year that appears before it in the sequence in subrule 58.24(1). For example, an innovation fund investment tax credit awarded in the current tax year must be applied against computed tax before a renewable energy tax credit carried forward from a previous tax year.

This rule is intended to implement Iowa Code sections 422.60 and 422.91.

[Filed 10/15/21, effective 12/8/21]

[Published 11/3/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/3/21.

ARC 6025C

REVENUE DEPARTMENT[701]

Adopted and Filed

**Rule making related to restrictions on assessors
and deputy assessors assessing their own property**

The Revenue Department hereby amends Chapter 71, "Assessment Practices and Equalization," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 421.14 and 441.17(2).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 441.17(2) as amended by 2021 Iowa Acts, Senate File 366, section 76.

Purpose and Summary

This rule making is intended to implement changes made in the 2021 Legislative Session. Specifically, 2021 Iowa Acts, Senate File 366, section 76, removes the "immediate family" component from Iowa Code section 441.17(2), which prohibits assessors and deputy assessors from assessing their own property, property the assessor or deputy assessor has a financial interest in, and property owned by an entity in which the assessor or deputy assessor has a financial interest. Additionally, this rule making removes reporting requirements and requires that assessors and deputy assessors certify annually to the Director that they have not personally assessed the above properties.

REVENUE DEPARTMENT[701](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 September 8, 2021, as **ARC 5887C**. 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 October 13, 2021.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on December 8, 2021.

The following rule-making action is adopted:

Amend rule 701—71.27(441) as follows:

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

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

71.27(2) Report Certification to the department.

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

- (1) Property owned by the assessor;
 - (2) Property in which the assessor has a financial interest;
 - (3) Property owned by an entity in which the assessor has a financial interest.
- ~~(1) Properties owned by the assessor;~~
 - ~~(2) Properties owned by a member of the assessor's immediate family;~~

REVENUE DEPARTMENT[701](cont'd)

~~(3) Properties in which the assessor or a member of the assessor's immediate family has a financial interest;~~

~~(4) Properties owned by an entity in which the assessor or a member of the assessor's immediate family has a financial interest;~~

~~(5) Properties owned by a deputy assessor;~~

~~(6) Properties owned by a member of the deputy assessor's immediate family;~~

~~(7) Properties in which a deputy assessor or a member of a deputy assessor's immediate family has a financial interest;~~

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

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

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

b. Not later than January 1 of each year, deputy assessors shall certify to the director that the deputy assessor did not personally assess the following property in the previous assessment year:

(1) Property owned by the deputy assessor;

(2) Property in which the deputy assessor has a financial interest;

(3) Property owned by an entity in which the deputy assessor has a financial interest.

c. Assessors and deputy assessors shall use forms and procedures prescribed and provided by the director for the certifications described in paragraphs 71.27(2) "a" and "b."

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

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

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

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

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

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

[Filed 10/15/21, effective 12/8/21]

[Published 11/3/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/3/21.

ARC 6019C

SCHOOL BUDGET REVIEW COMMITTEE[289]

Adopted and Filed

Rule making related to waivers

The School Budget Review Committee hereby amends Chapter 8, “Waivers or Variances from Administrative Rules,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 257.30.

State or Federal Law Implemented

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

Purpose and Summary

This rule making modernizes the Committee’s procedures for rule waivers in light of revisions to the Iowa Administrative Procedure Act made by 2020 Iowa Acts, House File 2389.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 14, 2021, as **ARC 5772C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Committee on October 12, 2021.

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 Committee for a waiver of the discretionary provisions, if any, pursuant to 289—Chapter 8.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or 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 8, 2021.

The following rule-making actions are adopted:

SCHOOL BUDGET REVIEW COMMITTEE[289](cont'd)

ITEM 1. Amend **289—Chapter 8**, title, as follows:

~~WAIVERS OR VARIANCES FROM ADMINISTRATIVE RULES~~

ITEM 2. Amend rule **289—8.1(17A,ExecOrd11)**, definition of “Waiver or variance,” as follows:
 “~~Waiver or variance~~” means action by the director which suspends in whole or in part the requirements or provisions of a rule as applied to an identified person on the basis of the particular circumstances of that person. ~~For simplicity, the term “waiver” shall include both a “waiver” and a “variance.”~~

ITEM 3. Amend rule 289—8.6(17A,ExecOrd11) as follows:

289—8.6(17A,ExecOrd11) Content of petition. A petition for waiver shall include the following information where applicable and known to the requester:

1. and 2. No change.
3. The specific waiver ~~or variance~~ requested, including the precise scope and duration.
4. to 10. No change.

ITEM 4. Amend rule 289—8.11(17A,ExecOrd11) as follows:

289—8.11(17A,ExecOrd11) Public availability. All orders granting or denying a waiver petition shall be indexed, filed and available for public inspection as provided in Iowa Code section 17A.3. Petitions for a waiver and orders granting or denying waiver petitions are public records under Iowa Code chapter 22. The committee may accordingly redact confidential information from petitions or orders prior to public inspection. Waiver information is available as described in rule 289—8.12(17A,ExecOrd11).

ITEM 5. Rescind rule 289—8.12(17A,ExecOrd11) and adopt the following **new** rule in lieu thereof:

289—8.12(17A,ExecOrd11) Submission of waiver information. When the committee grants or denies a waiver, the committee shall submit the information required by this rule on the Internet site established pursuant to Iowa Code section 17A.9A(4) within 60 days. The Internet site shall identify the rules for which a waiver has been granted or denied, the number of times a waiver was granted or denied for each rule, a citation to the statutory provisions implemented by these rules, and a general summary of the reasons justifying the committee’s actions on waiver requests. If practicable, the submission shall include information detailing the extent to which the granting of a waiver has established a precedent for additional waivers and has affected the general applicability of the rule itself.

[Filed 10/12/21, effective 12/8/21]

[Published 11/3/21]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 11/3/21.

ARC 6020C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rule making related to the control of outdoor advertising devices

The Transportation Department hereby amends Chapter 117, “Outdoor Advertising,” and rescinds Chapter 120, “Private Directional Signing,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 306C.11 and 307.12, 23 CFR Section 750.705, and 23 U.S.C. Section 131.

TRANSPORTATION DEPARTMENT[761](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 306B and 306C as amended by 2021 Iowa Acts, Senate File 548; 23 CFR Section 750.705; and 23 U.S.C. Section 131.

Purpose and Summary

This rule making amends Chapter 117 and rescinds Chapter 120 to conform with 2021 Iowa Acts, Senate File 548, which amends Iowa Code chapters 306B and 306C. Senate File 548 redefines “advertising device” and strikes several exceptions listed in Iowa Code section 306C.11. These exceptions have been applied unequally and are based on the content of signs, which are expressions of speech. It is likely that the practice of basing these exceptions on content abridges the right to freedom of speech as protected by the First Amendment of the U.S. Constitution. The amendments to Chapter 117 continue the process of eliminating these exceptions. The rescission of Chapter 120 is necessary following the repeal of Iowa Code section 306C.11(4), which contained another content-based exception for “directional signs.”

The amendments to Chapter 117 strike all rules and subrules that pertain to definitions, provisions, and restrictions associated with different categories or types of signs based on message content. If a sign qualifies as an “advertising device,” as defined in Iowa Code sections 306B.1 and 306C.10 as amended by 2021 Iowa Acts, Senate File 548, sections 1 and 4, the sign will be subject to one set of standards for advertising devices, rather than standards based on the content of the message. The determining factor on whether to regulate the sign as an advertising device will be whether remuneration (compensation) is being paid or earned in exchange for the erection, display or existence of the sign.

A new subrule 117.2(2), concerning “rebuttable presumption,” is added to provide the Department with the ability to regulate a sign as an advertising device, if sufficient documentation is not forthcoming from individuals involved with the sign. Without this ability, the opportunity exists for a person to claim that a sign is not an advertising device, while refusing to offer any information for the Department to make a determination. The process used to determine remuneration will not be overly intrusive. A simple form may be used for individuals involved with the sign to certify that no remuneration is being exchanged for the sign. If one of the parties opts to not have the forms completed, it is assumed that remuneration exists, and the sign will qualify as an “advertising device.” Advertising devices may still be permitted, but the standard permitting requirements (zoning, spacing, etc.) will apply to them.

A new subrule 117.2(7) is added in order to grandfather in signs that are currently permitted through the private directional signing program. Current provisions exist for these signs in Chapter 120, but this chapter is being rescinded because this program relies upon content-based factors. The effect of rescinding Chapter 120 will be minimal, because the Department has not received an application for this program in over two years.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 11, 2021, as **ARC 5859C**. 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 October 12, 2021.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. The fiscal note for 2021 Iowa Acts, Senate File 548, explains the potential for a loss of \$53.2 million in federal highway funding because of inaction. These amendments implement the legislative changes to ensure that the Department is not put in a position of risk regarding federal highway funds.

TRANSPORTATION DEPARTMENT[761](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 person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on December 8, 2021.

The following rule-making actions are adopted:

ITEM 1. Rescind the definitions of “Development directory sign,” “Directional and official signs and notices,” “Directional sign,” “Obsolete sign,” “Official sign or notice,” “On-premises sign,” “Public utility sign,” and “Service club or religious notice” in rule **761—117.1(306B,306C)**.

ITEM 2. Amend rule 761—117.2(306B,306C) as follows:

761—117.2(306B,306C) General provisions.

117.2(1) Scope. This chapter of rules pertains to all advertising devices which are visible from the main traveled way of any primary highway, with the following exceptions:

a. No change.

b. ~~Except where specified otherwise, this~~ This chapter does not apply to official traffic control devices, logo signing, or tourist-oriented directional signing, or private directional signing.

117.2(2) Rebuttable presumption. The department may regulate signs as advertising devices except when sufficient documentation from persons reasonably identified as potential payors or receivers of remuneration is available to the department showing or certifying that remuneration does not exist.

~~117.2(2)~~ **117.2(3) Contact information.** Inquiries, requests for forms, and applications regarding this chapter shall be directed to the Advertising Management Section, Traffic and Safety Bureau, Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

~~117.2(3)~~ **117.2(4) Unauthorized signs, signals, or markings.** Any sign, signal, marking or device prohibited by Iowa Code section 321.259 is a public nuisance and shall be removed by the department if it is within the department's jurisdiction.

~~117.2(4)~~ **117.2(5) Advertising devices obstructing the view of a highway or railway.** Any advertising device that obstructs the view of any portion of a public highway or railway track in violation of Iowa Code ~~subsection~~ section 318.11(2) or 657.2(7) is a public nuisance, which shall be abated as provided in Iowa Code chapter 657.

~~117.2(5)~~ **117.2(6) Advertising devices within the right-of-way.** Any advertising device placed or erected within the right-of-way of any primary highway in violation of Iowa Code chapter 318 is subject to removal in the manner specified in Iowa Code chapter 318.

117.2(7) Advertising devices permitted under the private directional sign program between May 26, 1983, and July 1, 2021.

a. Any advertising device permitted as a private directional sign by the department between May 26, 1983, and July 1, 2021, may continue to exist, even if nonconforming to this chapter, with the following conditions:

TRANSPORTATION DEPARTMENT[761](cont'd)

- (1) The permit is renewed each year by payment of a \$15 fee on or before July 1.
- (2) The permit may not be transferred to an entity representing a different activity or site.
- (3) The advertising device is not modified or destroyed.
- (4) The advertising device is properly maintained with legible copy.
- (5) The design or display of the advertising device does not violate any federal or state laws or regulations.

b. Advertising devices which fail to meet any of the conditions in this subrule shall be subject to removal as provided for in rule 761—117.8(306B,306C).

ITEM 3. Amend subrule 117.3(1) as follows:

117.3(1) Prohibition. Advertising devices shall not be erected, maintained or illuminated unless they comply with the following:

- a. No change.
- b. No advertising device shall interfere with, imitate or resemble any official sign, signal or device erected by the department within the right-of-way of any primary highway.
- c. and d. No change.
- e. ~~No off-premises advertising device shall include any flashing, intermittent or moving light or lights except those signs giving public service information such as time, date, temperature, weather and news. No on-premises sign located within the adjacent area of an interstate highway but outside an area zoned and used for commercial or industrial purposes, as defined in rule 761—117.1(306B,306C), shall include any flashing, intermittent or moving light or lights except those signs giving public service information such as time, date, temperature, weather and news. Any variation or addition to the stated service information is subject to department approval. This paragraph does not prohibit an LED display, provided:~~
 - (1) to (3) No change.
- f. No change.
- g. ~~No advertising device subject to the more restrictive controls of the bonus Act shall be obsolete.~~
- h. to k. No change.
- l. ~~No off-premises advertising device may be erected within the adjacent area of any primary highway that has been designated a scenic highway or scenic byway if the advertising device will be visible from the highway. However, if the off-premises advertising device was in existence at the time of the designation, subsequent permitting may occur in accordance with Iowa Code section 306C.18.~~
- m. An advertising device shall not be constructed or reconstructed beyond the adjacent area in unincorporated areas of the state if the advertising device is visible from the main traveled way of any primary highway ~~except for on-premises signs and official signs and notices.~~

ITEM 4. Rescind and reserve rule **761—117.4(306B,306C)**.

ITEM 5. Amend rule 761—117.5(306B,306C), introductory paragraph, as follows:

761—117.5(306B,306C) Location, size and spacing requirements. ~~This rule does not apply to on-premises signs.~~

ITEM 6. Rescind and reserve paragraph **117.5(5)“j.”**

ITEM 7. Amend rule 761—117.6(306C), introductory paragraph, as follows:

761—117.6(306C) Outdoor advertising permits and fees required. The owner of an advertising device must apply to the department for an outdoor advertising permit if the device is ~~visible from the main traveled way of any primary highway and the device is regulated by subrule 117.4(1) or rule 761—117.5(306B,306C)~~ subject to subrule 117.2(1).

ITEM 8. Amend paragraph **117.6(9)“a”** as follows:

- a. A blank sign is:
 - (1) No change.

TRANSPORTATION DEPARTMENT[761](cont'd)

(2) An advertising device that does not display copy. ~~“This space for rent” or a similar message is not copy.~~

~~(3) An advertising device that qualifies as an obsolete sign.~~

ITEM 9. Rescind and reserve rule **761—117.7(306C)**.

ITEM 10. Amend subrule 117.8(2) as follows:

117.8(2) *Removal from right-of-way and other state-owned property.* The department shall remove advertising devices erected upon the right-of-way of any primary highway; see subrule ~~117.2(5)~~ 117.2(6). Unauthorized advertising devices erected upon other property owned by the state of Iowa are subject to removal by the agency, board, commission or department having control or jurisdiction of the property.

ITEM 11. Amend subrule 117.10(2) as follows:

117.10(2) The owner of an outdoor advertising permit which has been revoked or canceled by the department may contest the decision in accordance with 761—Chapter 13. The request for a contested case hearing shall be submitted in writing to the director of the traffic and safety bureau at the address in subrule ~~117.2(2)~~ 117.2(3). The request shall be deemed timely submitted if it is delivered or postmarked within 30 days of the owner’s receipt of the revocation notice issued by the department.

ITEM 12. Rescind and reserve rule **761—117.15(306C)**.

ITEM 13. Amend **761—Chapter 117**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 306B and 306C as amended by 2021 Iowa Acts, Senate File 548, and section 306D.4, 23 U.S.C. 131, and ~~23 CFR 750.705(h)~~ 23 CFR 750.705.

ITEM 14. Rescind and reserve **761—Chapter 120**.

[Filed 10/12/21, effective 12/8/21]

[Published 11/3/21]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 11/3/21.

ARC 6021C

UTILITIES DIVISION[199]

Adopted and Filed

Rule making related to electric utility service

The Utilities Board hereby amends Chapter 20, “Service Supplied by Electric Utilities,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 476.2 and 476.6(8)“b.”

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 476 and section 476.6(8)“b.”

Purpose and Summary

This rule making adopts amendments to Chapter 20, the Board’s electric service rules, as part of the five-year update and establishes rules for the statutory requirements in Iowa Code section 476.6(8)“b” for the pass-through of federally approved electric transmission costs. The amendments clarify Board rules regarding pass-through of energy costs to customers and simplify reliability requirements. In addition, the Board has adopted a new Chapter 27 (**ARC 5865C**, IAB 8/25/21) to regulate electric cooperatives and municipal electric utilities; thus, language relating to that topic has been removed from Chapter 20.

UTILITIES DIVISION[199](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 February 24, 2021, as **ARC 5475C**. An oral presentation was held on April 13, 2021, at 1 p.m. in the Board Hearing Room, 1375 East Court Avenue, Des Moines, Iowa.

Comments were filed by the rate-regulated utilities, the Office of Consumer Advocate, large customer groups, and environmental organizations. The Board also held workshops with interested persons to discuss some of the more detailed filing requirements and other issues. Most of the comments addressed the filing requirements for passing through to customers electric power costs and the transmission cost adjustment tariffs. There was also some discussion regarding reporting on reliability standards by the rate-regulated utilities.

In addition to the written comment deadline contained in the Notice, the Board allowed the public to file additional written comments. The Board also issued an order with a draft Adopted and Filed to allow for a final round of comments before final rules were adopted. Comments were filed by the same persons as filed comments before and after the oral presentation. The written comments addressed issues regarding the amount and type of information a utility is required to file with the updates in the rates for passing through energy costs to customers and the transmission cost adjustment tariffs. There was also discussion of the requirement to file reports regarding the reliability of the electric power system. The order adopting the amendments to Chapter 20 is available on the Board's electronic filing system under Docket No. RMU-2019-0020.

Based upon the written comments and the discussions at the oral presentation, the Board made several changes from the amendments proposed in the Notice. The Board made some minor changes to the language regarding the tariff filing requirements for passing through electric costs and the transmission cost recovery tariffs, revised the electronic filing requirements for electronic maps, and did not amend the Board's system reliability rules as proposed in the Notice. The order explaining the revisions can be located in Docket No. RMU-2019-0020 in the Utilities Board electronic filing system, efs.iowa.gov.

Adoption of Rule Making

This rule making was adopted by the Board on October 11, 2021.

Fiscal Impact

The amendments to Chapter 20 do not significantly change the rules for rate-regulated electric utilities from current rules and so should not have a significant fiscal impact.

Jobs Impact

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

Waivers

No waiver provision is included in the proposed amendments because the Board has a general waiver provision in rule 199—1.3(17A,474,476) that provides procedures for requesting a waiver of the rules in Chapter 20.

Review by Administrative Rules Review Committee

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

UTILITIES DIVISION[199](cont'd)

Effective Date

This rule making will become effective on December 8, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend **199—Chapter 20**, title, as follows:

SERVICE SUPPLIED BY RATE-REGULATED ELECTRIC UTILITIES

ITEM 2. Amend rule 199—20.1(476) as follows:

199—20.1(476) General information.

20.1(1) Authorization of rules. Iowa Code chapter 476 provides that the Iowa utilities board shall establish all needful, just and reasonable rules, not inconsistent with law, to govern the exercise of its powers and duties, the practice and procedure before it, and to govern the form, content and filing of reports, documents and other papers necessary to carry out the provisions of this law.

a. Iowa Code chapter 478 provides that the Iowa utilities board shall have power to make and enforce rules relating to the location, construction, operation and maintenance of certain electrical transmission lines.

~~The application of the rules in this chapter to municipally owned utilities furnishing electricity is limited by Iowa Code section 476.1B, and the application of the rules in this chapter to electric utilities with fewer than 10,000 customers and to electric cooperative associations is limited by the provisions of Iowa Code section 476.1A.~~

b. Electric utilities with fewer than 10,000 customers subject to board regulation pursuant to Iowa Code section 476.1A are subject to the regulatory requirements set out in 199—Chapter 27 for electric cooperatives.

20.1(2) Application of rules. The rules shall apply to any rate-regulated electric utility operating within the state of Iowa subject to Iowa Code chapter 476, and to the construction, operation and maintenance of electric transmission lines to the extent provided in Iowa Code chapter 478, and shall supersede all tariffs on file with the board which are in conflict with these rules.

a. These rules are intended to promote safe and adequate service to the public, to provide standards for uniform and reasonable practices by utilities, and to establish a basis for determining the reasonableness of such demands as may be made by the public upon the utilities.

b. A request to waive the application of any rule on a permanent or temporary basis may be made in accordance with 199—1.3(17A,474,476).

c. The adoption of these rules shall in no way preclude the board from altering or amending them pursuant to statute or from making such modifications with respect to their application as may be found necessary to meet exceptional conditions.

d. These rules shall in no way relieve any utility from any of its duties under the laws of this state.

20.1(3) and 20.1(4) No change.

ITEM 3. Amend subrule 20.2(2) as follows:

20.2(2) Tariffs to be filed with the board. The schedules of rates and rules of rate-regulated electric utilities shall be filed with the board and shall be classified, designated, arranged and submitted so as to conform to the requirements of this chapter. Provisions of the schedules shall be definite and so stated as to minimize ambiguity or the possibility of misinterpretation. The form, identification and content of tariffs shall be in accordance with these rules. A rate-regulated electric utility's current tariff will be made available through the board's electronic filing system.

~~Utilities which are not subject to the rate regulation provided for by Iowa Code chapter 476 shall not be required to file schedules of rates, rules, or contracts primarily concerned with a rate schedule with the board and shall not be subject to the provisions related to rate regulations, but nothing contained in these rules shall be deemed to relieve any utility of the requirement of furnishing any of these same schedules or contracts which are needed by the board in the performance of the board's duties upon request to do so by the board.~~

UTILITIES DIVISION[199](cont'd)

ITEM 4. Amend subrule 20.3(8) as follows:

20.3(8) Service areas. Service areas are defined by the boundaries on service area maps. ~~Paper~~ Electronic maps are available for viewing during regular business hours at the board's offices ~~and available for purchase at the cost of reproduction.~~ Maps are also available for viewing on the board's website. ~~These service area maps are adopted as part of this rule and are incorporated in this rule by this reference.~~

ITEM 5. Amend subrule 20.3(9) as follows:

20.3(9) ~~Petition for modification~~ Modification of service area and answers.

a. An exclusive service area is subject to modification through a contested case proceeding which may be commenced by filing a petition for modification of service area with the board. The board may commence a service area modification proceeding on its own motion. The board may grant a modification if the modification promotes the public interest. In determining whether the modification is in the public interest, the board will consider the factors described in Iowa Code section 476.25(1) and any other relevant factors.

b. ~~Any An~~ electric utility ~~or municipal corporation~~ may file a petition for modification of service area, which shall contain (1) a legal description of the service area desired, (2) a designation of the utilities involved in each boundary section, ~~and~~ (3) a justification for the proposed service area modification, ~~and~~ (4) in addition to the PDF (Portable Document Format) required in 199—subrule 14.8(1), an electronic file of the proposed service area boundaries, in a format designated by the board, as described on the electronic filing system (EFS) homepage under EFS Filing Standards. The justification shall include a detailed statement of why the proposed modification is in the public interest. A map showing the affected areas which complies with paragraph 20.3(11)“a” shall be attached to the petition as an exhibit.

c. Filing of the petition with the board, and service to other parties, shall be in accordance with 199—Chapter 14.

d. ~~All parties shall file an~~ An answer which complies to a petition for a service area modification shall comply with 199—subrule 7.5(4) 199—subrule 7.9(2).

e. Electric utilities may agree to service area modifications by contract pursuant to Iowa Code section 476.25(2). Contracts to be enforceable require board approval. The board shall approve a contract if the board finds that the contract will eliminate or avoid unnecessary duplication of facilities, will provide adequate electric service to all areas and customers affected, will promote the efficient and economical use and development of the electric systems of the contracting utilities, and is in the public interest.

ITEM 6. Amend subrule 20.4(2) as follows:

20.4(2) Customer contact employee qualifications. Each utility shall promptly and courteously resolve inquiries for information or complaints. Employees who receive customer telephone calls and office visits shall be qualified and trained in screening and resolving complaints, to avoid a preliminary recitation of the entire complaint to employees without ability and authority to act. The employee shall provide identification to the customer that will enable the customer to reach that employee again if needed.

a. Each utility shall notify its customers, by bill insert or notice on the bill form, of the address and telephone number where a utility representative qualified to assist in resolving the complaint can be reached. The bill insert or notice shall also include the following statement: “If (utility name) does not resolve your complaint, you may request assistance from the Iowa Utilities Board by calling (515)725-7321, or toll-free 1-877-565-4450, or by writing to 1375 E. Court Avenue, Des Moines, Iowa 50319-0069, or by email to customer@iub.iowa.gov.”

~~The bill insert or notice for municipal utilities shall include the following statement: “If your complaint is related to service disconnection, safety, or renewable energy, and (utility name) does not resolve your complaint, you may request assistance from the Iowa Utilities Board by calling (515)725-7321, or toll free 1-877-565-4450, by writing to 1375 E. Court Avenue, Des Moines, Iowa 50319-0069, or by email to customer@iub.iowa.gov.”~~

UTILITIES DIVISION[199](cont'd)

The bill insert or notice for non-rate regulated rural electric cooperatives shall include the following statement: “If your complaint is related to the (utility name) service rather than its rates, and (utility name) does not resolve your complaint, you may request assistance from the Iowa Utilities Board by calling (515)725-7321, or toll free 1-877-565-4450, by writing to 1375 E. Court Avenue, Des Moines, Iowa 50319-0069, or by email to customer@iub.iowa.gov.”

b. The bill insert or notice on the bill shall be provided monthly by utilities serving more than 50,000 Iowa retail customers and no less than annually by all other electric utilities. Any utility which does not use the standard statement described in this subrule shall file its proposed statement in its tariff for approval. A utility that bills by postcard may place an advertisement in a local newspaper of general circulation or a customer newsletter instead of a mailing. The advertisement must be of a type size that is easily legible and conspicuous and must contain the information set forth above.

ITEM 7. Amend subparagraph **20.4(11)“c”(1)** as follows:

(1) First payment agreement. The utility shall offer the following conditions to customers who have received a disconnection notice or who have been previously disconnected and are not in default of a payment agreement:

1. to 11. No change.

12. A customer shall not be charged interest, or a late payment charge, on a payment agreement where the customer is making payments consistent with the terms of the payment agreement.

ITEM 8. Amend subparagraph **20.4(15)“d”(3)**, question 3, as follows:

3. How do I apply for low-income energy assistance? (Residential customers only)

a. ~~Contact the local community action agency in your area (see attached list)~~ Applications are taken at your local community action agency. If you are unsure where to apply, dial 2-1-1 or 1-800-244-7431, or visit humanrights.iowa.gov/dcaa/.

b. To avoid disconnection, you must apply for energy assistance or weatherization before your service is shut off. Notify your utility that you may be eligible and have applied for energy assistance. Once your service has been disconnected, it will not be reconnected based on approval for energy assistance.

c. Being certified eligible for energy assistance will prevent your service from being disconnected from November 1 through April 1.

d. ~~If you have additional questions, contact the Division of Community Action Agencies at the Iowa Department of Human Rights, Lucas State Office Building, Des Moines, Iowa 50319; telephone (515)281-3861.~~

ITEM 9. Amend subrule 20.8(1) as follows:

20.8(1) Protective measures. Each utility shall exercise reasonable care to reduce those hazards inherent in connection with its utility service and to which its employees, its customers, and the general public may be subjected and shall adopt and execute a safety program designed to protect the public and fitted to the size and type of its operations. A utility shall include in its safety program procedures for notifying the board and the public of an incident involving a component of a wind turbine, solar facility, storage facility, or any other generating facility where the incident has resulted in damage to adjacent property or members of the public.

ITEM 10. Amend rule 199—20.9(476) as follows:

~~199—20.9(476) Electric energy sliding scale or automatic adjustment.~~ A rate-regulated utility’s sliding scale or automatic ~~The electric energy cost adjustment of the unit charge for electric energy shall be an energy adjustment clause.~~

20.9(1) Applicability. ~~A rate-regulated utility’s sliding scale or automatic~~ electric energy adjustment of electric utility energy rates shall recover from consumers only those costs which:

a. Are incurred in supplying energy;

b. Are beyond direct control of management;

c. Are subject to sudden important change in level;

d. Are an important factor in determining the total cost to serve; and

UTILITIES DIVISION[199](cont'd)

e. Are readily, precisely, and continuously segregated in the accounts of the utility.

20.9(2) Energy adjustment clause for rate-regulated utility. Prior to each billing cycle any period in which a utility proposes to change the adjustment amount for each energy unit delivered to the customer, a rate-regulated utility shall determine and file for board approval the adjustment amount to be charged for each energy unit consumed delivered under rates set by the board. The energy adjustment clause factors shall be printed on the customer's bill. The filing shall include all journal entries, invoices (except invoices for fuel, freight, and transportation), worksheets, and detailed supporting data used to determine the amount of the adjustment. Spreadsheets, workbooks, and databases included in filings shall include all cell formulae and cell references. Utilities that participate in a wholesale energy market and use a forecasted energy adjustment clause shall provide information about key inputs and assumptions and explain the differences between the forecast and actual fuel costs. The estimated amount of fossil fuel should be detailed to reflect the amount of fuel, transportation, emission allowances, and other costs.

a. The utility shall keep and maintain journal entries ~~should reflect the following~~ to reflect a breakdown for each type of fuel: actual cost of fuel, transportation costs, and other costs. Items identified as other costs should be described and their inclusion as fuel costs ~~should be justified~~ shall be approved by the board. The board may direct that journal entries be filed. The utility shall also file detailed supporting data:

1- (1) To show the actual amount of sales of energy by month for which an adjustment was utilized, and

2- (2) To support the energy cost adjustment balance utilized in the monthly energy adjustment clause filings.

a. b. The energy adjustment shall provide for change of the price per kilowatt-hour consumed kilowatt-hour delivered under rates set by the board based upon the formulas provided below in the utility's tariff. The energy adjustment factor shall be rounded on a consistent basis to either the nearest 0.01¢/kWh or 0.001¢/kWh. The tariff shall define the components of the formula(s) and shall include reference to the specific accounts of the Uniform System of Accounts for each component.

(1) For each period as specified in the tariff, the calculation shall be include but not be limited to:

$$E_0 = \frac{EC_0 + EC_1}{EQ_0 + EQ_1} + \frac{A_1}{EJ_0 + EJ_1} - B$$

~~E_0 is the energy adjustment charge to be used in the next customer billing cycle rounded on a consistent basis to either the nearest 0.01¢/kWh or 0.001¢/kWh. For deliveries at voltages higher than secondary line voltages, appropriate factors should be applied to the adjustment charge to recognize the lower losses associated with these deliveries.~~

~~EC_0 is the estimated expense for energy in the month during which E_0 will be used.~~

~~EC_1 is the estimated expense for energy in the month prior to the month of EC_0 .~~

~~EQ_0 is the estimated electric energy to be consumed or delivered and entered in accounts 440, 442, 444-7, excluding energy from distinct interchange deliveries entered into account 447 and including intrautility energy service as included in accounts 448 and 929 of the Uniform System of Accounts during the month in which E_0 will be used.~~

~~EQ_1 is the estimated electric energy to be consumed or delivered and entered in accounts 440, 442, 444-7, excluding energy from distinct interchange deliveries entered in account 447 and including intrautility energy service as included in accounts 448 and 929 of the Uniform System of Accounts during the month prior to EQ_0 .~~

~~EJ_0 is the estimated electric energy to be consumed under rates set by the board in the month during which the energy adjustment charge (E_0) will be used in bill calculations.~~

~~EJ_1 is the estimated electric energy to be consumed under rates set by the board in the month prior to the month of EJ_0 .~~

~~A_1 is the beginning of the month energy cost adjustment account balance for the month of estimated consumption EJ_1 . This would be the most recent month's balance available from actual accounting data.~~

UTILITIES DIVISION[199](cont'd)

B is the amount of the electric energy cost included in the base rates of a utility's rate schedules.

1. The estimated energy cost and revenues;
2. The estimated electric energy to be delivered and entered in accounts 440, 442, and 444-7, excluding energy from distinct interchange deliveries entered into account 447, and including intrautility energy service as included in accounts 448 and 929 of the Uniform System of Accounts during the month in which the energy adjustment charge will be used; and
3. The energy cost adjustment account balance.

(2) The base formula for the energy adjustment factor shall be:

Energy adjustment factor = (energy cost adjustment account balance + estimated energy costs and revenues) / estimated energy delivered

b. c. The estimated energy cost (EC₀+EC₁) and revenues shall be the estimated cost and revenues associated with EQ₀ and EQ₁ determined as the cost of:

(1) Fossil and nuclear fuel consumed in the utility's own plants and the utility's share of fossil and nuclear fuel consumed in jointly owned or leased plants. Fossil fuel shall include natural gas used for electric generation and the cost of fossil fuel transferred from account 151 to account 501 or 547 of the Uniform System of Accounts for Electric Utilities. Nuclear fuel shall be that shown in account 518 of the Uniform System of Accounts except that if account 518 contains any expense for fossil fuel which has already been included in the cost of fossil fuel, it shall be deducted from the account. (Paragraph C of account 518 includes the cost of other fuels used for ancillary steam facilities.)

(2) The cost of steam purchased, or transferred from another department of the utility or from others under a joint facility operating agreement, for use in prime movers producing electric energy (accounts 503 and 521).

(3) A deduction shall be made of the expenses of producing steam chargeable to others, to other utility departments under a joint operating agreement, or to other electric accounts outside the steam generation group of accounts (accounts 504 and 522).

(4) The cost of water used for hydraulic power generation. Water cost shall be limited to items of account 536 of the Uniform System of Accounts. For pumped storage projects, the energy cost of pumping is included. Pumping energy cost shall be determined from the applicable costs of subparagraphs of paragraph 20.9(2) "b." 20.9(2) "c."

(5) The energy costs paid for energy purchased under arrangements or contracts ~~for capacity and energy~~, as entered into account 555 of the Uniform System of Accounts, less the energy revenues to be recovered from corresponding sales, as entered in account 447 of the Uniform System of Accounts.

(6) Purchases from ~~AEP~~ alternative energy production facilities under rule 199—15.11(476).

(7) The weighted average costs of inventoried allowances used in generating electricity.

(8) The gains and losses, as described in subrule 20.17(9), from allowance transactions occurring during the month. Allowance transactions shall include vintage trades and emission for emission trades.

(9) Eligible costs or credits associated with the utility's annual reconciliation of its alternate energy purchase program under 199—paragraph 15.17(4) "b."

(10) Federal production tax credits unless the board approves different ratemaking treatment.

(11) Other costs and revenues as specified in the utility's tariff and approved by the board. For all other costs and revenues, the utility shall provide the type of cost, the dollar amount, and reference to the board order approving the cost to be included in the energy adjustment clause (EAC).

e. d. The energy cost adjustment account balance (A) shall be the cumulative balance of any excess or deficiency which arises out of the difference between board recognized energy cost recovery and the amount recovered through application of energy charges to consumption under rates set by the board. Each monthly entry (D) into the energy cost adjustment account shall be the dollar amount determined from solution of the following equation (with proper adjustment for those deliveries at high voltage which for billing purposes recognized the lower losses associated with the high voltage deliveries). The calculation for the energy cost adjustment account balances shall include but is not limited to:

$$D = \left[\epsilon_2 \times \frac{J_2}{Q_2} \right] - \left[J_2 \times (E_2 + B) \right]$$

UTILITIES DIVISION[199](cont'd)

C_2 is the actual expense for energy, calculated as set forth in 20.9(2) "b," in the month prior to EJ_1 of 20.9(2) "a."

J_2 is the actual energy consumed in the prior month under rates set by the board and recorded in accounts 440, 442 and 444-6 of the Uniform System of Accounts.

Q_2 is the actual total energy consumed or delivered in the prior month and recorded in accounts 440, 442, 444-7, excluding energy from distinct interchange deliveries entered in account 447, and including intrautility energy service as included in accounts 448 and 929 of the Uniform System of Accounts.

E_2 is the energy adjustment charge used for billing in the prior month.

B is the amount of the electric energy cost included in the base rates of a utility's rate schedules.

(1) The actual energy expense for the prior period and recorded in accounts 440, 442 and 444-6 of the Uniform System of Accounts;

(2) The actual electric energy delivered for the prior period and recorded in accounts 440, 442, and 444-7, excluding energy from distinct interchange deliveries entered into account 447, and including intrautility energy service as included in accounts 448 and 929 of the Uniform System of Accounts; and

(3) The beginning energy cost adjustment account balance (overrecovered or underrecovered amount) for the current period.

d. e. Reserve account for nuclear generation. A rate-regulated utility owning nuclear generation or purchasing energy under a participation power agreement on nuclear generation may establish a reserve account. The reserve account will spread the higher cost of energy used to replace ~~that~~ the energy normally received from nuclear sources. A surcharge would be added to each kilowatt-hour kilowatt-hour from the nuclear source. The surcharges collected are credited to the reserve account. During an outage or reduced level of operation, replacement energy cost would be offset through debit to the reserve account. The debit would be based upon the cost differential between replacement energy cost and the average cost (including the surcharge) of energy from the nuclear capacity. A reserve account shall have credit and debit limitations equal in dollar amounts to the total cost differential for replacement energy during a normal refueling outage.

e. f. A rate-regulated utility desiring to collect expensed allowance costs and the gains and losses from allowance transactions through the energy adjustment must file with the board monthly reports including:

(1) The number and weighted average unit cost of allowances used during the month to offset emissions from the utility's affected units;

(2) The number and unit price of allowances purchased during the month;

(3) The number and unit price of allowances sold during the month;

(4) The weighted average unit cost of allowances remaining in inventory;

(5) The dollar amount of any gain from an allowance sale occurring during the month;

(6) The dollar amount of any loss from an allowance sale occurring during the month; and

(7) Documentation of any gain or loss from an allowance sale occurring during the month.

f. g. ~~A rate-regulated utility which proposes a new sliding scale or automatic adjustment clause of electric utility energy rates shall conform such clause with the rules~~ The energy adjustment clause factor may include other automatic adjustment mechanisms as approved by the board.

20.9(3) *Optional energy clause for a rate-regulated utility which does not own generation* Utilities not making monthly changes to the adjustment amount. A rate-regulated utility which does not own generation may adopt the energy adjustment clause of this subrule in lieu of that set forth in subrule 20.9(2). Prior to each billing cycle, the rate-regulated utility shall determine and file for board approval the adjustment amount to be charged for each energy unit consumed under rates set by the board. The filing shall include all journal entries, invoices (except invoices for fuel, freight, and transportation), worksheets, and detailed supporting data used to determine the amount of the adjustment. The items identified as other costs should be described and their inclusion as energy costs should be justified. The utility shall also file detailed supporting data Utilities that do not file monthly adjustments shall:

1. ~~To show the actual amount of sales of energy by month for which an adjustment was utilized,~~
and

UTILITIES DIVISION[199](cont'd)

2. To support the energy cost adjustment balance utilized in the monthly energy adjustment clause filings.

a. The energy adjustment charge shall provide for change of the price per kilowatt-hour consumed to equal the average cost per kilowatt hour delivered by the utility's system. The calculation shall be:

$$E_0 = \frac{C_2 + C_3 + C_4}{Q_2 + Q_3 + Q_4} - B$$

E_0 is the energy adjustment charge to be used in the next customer billing cycle rounded on a consistent basis to either the nearest 0.01¢/kWh or 0.001¢/kWh. For deliveries at voltages higher than secondary line voltages, appropriate factors should be applied to the adjustment charge to recognize the lower losses associated with these deliveries.

C_2 , C_3 and C_4 are the charges by the wholesale suppliers as recorded in account 555 offset by energy revenues from distinct interchange deliveries entered in account 447 of the Uniform System of Accounts for the first three of the four months prior to the month in which E_0 will be used.

Q_2 , Q_3 and Q_4 are the total electric energy delivered by the utility system, excluding energy from distinct interchange deliveries entered in account 447 during each of the months in which the expenses C_2 , C_3 and C_4 were incurred.

B is the amount of the electric energy cost included in the base rates of a utility's rate schedules.

b. A utility purchasing its total electric energy requirements may establish an energy cost adjustment account for which the cumulative balance is the excess or deficiency arising from the difference between commission-recognized energy cost recovery and the amount recovered through application of energy charges on jurisdictional consumption.

For a utility electing to use an energy cost adjustment account the calculation shall be:

$$E_0 = \frac{C_2 + C_3 + C_4}{Q_2 + Q_3 + Q_4} + \frac{A_2}{J_2 + J_3 + J_4} - B$$

E_0 is the energy adjustment charge to be used in the next customer billing cycle rounded on a consistent basis to either the nearest 0.01¢/kWh or 0.001¢/kWh. For deliveries at voltages higher than secondary line voltages, appropriate factors should be applied to the adjustment charge to recognize the lower losses associated with these deliveries.

C_2 , C_3 and C_4 are the charges by the wholesale suppliers as recorded in account 555 offset by energy revenues from distinct interchange deliveries entered in account 447 of the Uniform System of Accounts for the first three of the four months prior to the month in which E_0 will be used.

Q_2 , Q_3 and Q_4 are the total electric energy delivered by the utility system, excluding energy from distinct interchange deliveries entered in account 447 during each of the months in which the expenses C_2 , C_3 and C_4 were incurred.

A_2 is the end of the month energy cost adjustment account balance for the month of consumption J_2 . This would be the most recent month's balance available from actual accounting data.

J_2 , J_3 and J_4 are electric energy consumed under rates set by the board in the months corresponding to C_2 , C_3 and C_4 .

B is the amount of the electric energy cost included in the base rates of a utility's rate schedules.

c. The end of the month energy cost adjustment account balance (A) shall be the cumulative balance of any excess or deficiency which arises out of the difference between board-recognized energy cost recovery and the amount recovered through application of energy charges to consumption under rates set by the board.

Each monthly entry (D) into the energy cost adjustment account shall be the dollar amount determined from solution of the following equation (with proper adjustment for those deliveries at high voltage which for billing purposes recognized the lower losses associated with the high voltage deliveries):

UTILITIES DIVISION[199](cont'd)

$$D = \left[\frac{C_2 \times J_2}{Q_2} \right] - \left[J_2 \times (E_2 + B) \right]$$

~~C_2 is the prior month charges by the wholesale suppliers as recorded in account 555 of the Uniform System of Accounts offset by energy revenues from distinct interchange deliveries entered in account 447.~~

~~J_2 is the electric energy consumed under jurisdictional rates in the prior month.~~

~~Q_2 is the electric energy delivered by the utility system, excluding energy from distinct interchange deliveries entered in account 447 in the prior month.~~

~~E_2 is the energy adjustment charge used for billing in the prior month.~~

~~B is the amount of the electric energy cost included in the base rates of a utility's rate schedules.~~

~~d. A utility with special conditions may petition the board for a waiver which would recognize its unique circumstances.~~

~~e. A utility which does not own generation and proposes a new sliding scale or automatic adjustment clause of electric utility rates shall conform such clause with the rules.~~

~~a. File the information pursuant to subrule 20.9(2) on a quarterly basis.~~

~~b. File an annual reconciliation of the EAC factor and an update to the EAC factor. The date of the annual reconciliation and update shall be specified in the utility's tariff. The reconciliation shall follow the requirements of subrule 20.9(2).~~

~~c. Include a semiannual adjustment if the absolute value of the cumulative over recovery or under recovery amount is greater than 20 percent of the forecasted net recoverable energy costs for the EAC year. The semiannual adjustment filing shall be filed six months after the annual reconciliation and update filing and shall follow the requirements of subrule 20.9(2), but will be limited to the remaining months of the year. The semiannual factor updates may utilize updated forecasts for the costs and sales for the remainder of the year.~~

~~**20.9(4) Review of energy adjustment clause.** At least biennially, but no more than annually, the board will shall require each utility that owns generation and utilizes an energy adjustment clause to provide fuel, freight, and transportation invoices from two months of the previous calendar year. The utility shall include an explanation of and demonstrate how these invoices correspond to the energy adjustment clause calculations. The explanation shall include inventory accounting information and average cost of fuel and transportation included in the energy adjustment clause calculations. The board will notify each utility by May 1 as to which two months' invoices will be required. Two copies of these These invoices shall be filed with the board no later than the subsequent November 1.~~

~~**20.9(5) Annual reports.** With the first filing of the utility's EAC year, each utility participating in a wholesale market shall file a report explaining how participation results in reduced customer rates or reduces increases in customer rates, identifying current and evolving market issues that are expected to impact rates, and describing the utility's efforts to influence market issues for the benefit of customers.~~

~~This rule is intended to implement Iowa Code section 476.6(12).~~

ITEM 11. Adopt the following new rule 199—20.16(476):

199—20.16(476) Exterior flood lighting.

20.16(1) Newly installed lighting. All newly installed public utility-owned exterior flood lighting shall be solid-state lighting or lighting with equivalent or better energy efficiency.

20.16(2) In-service lighting replacement schedule. In-service lighting shall be replaced with solid-state lighting or lighting with equivalent or better energy efficiency when worn out due to ballast, lamp, or fixture failure for any other reason, such as vandalism or storm damage. A utility shall file with the board as part of the utility's annual report required in 199—Chapter 23 a report stating the progress in converting to higher pressure sodium lighting or lighting with equivalent or higher energy efficiency. Information shall be provided as part of the board 24/7 requirements.

20.16(3) Efficacy standards. Lighting other than solid-state has equivalent or better efficacy if one or more of the following can be established:

UTILITIES DIVISION[199](cont'd)

- a. For fixtures, the mean lumens-per-watt lamp rating is greater than 100; or
- b. The new lighting uses no more energy per installation than comparable, suitably sized solid-state; or
- c. The new lighting luminaries have a mean efficacy rating equal to or greater than 100 lumens per watt according to a Department of Energy (DOE) Lighting Facts label, testing under the DOE Commercially Available LED Product Evaluation and Reporting Program (CALiPER), Design Lights Consortium (DLC) or any other testing agency that follows Illuminating Engineering Society of North America LM-79-08 test procedures.

ITEM 12. Amend subrule 20.19(1) as follows:

20.19(1) Notification. The notification requirements in subrules 20.19(1) and 20.19(2) are for the timely collection of electric outage information that may be useful to emergency management agencies in providing for the welfare of individual Iowa citizens. Each electric utility shall notify the board when it is projected that an outage may result in a loss of service for more than six hours and the outage meets one of the following criteria:

- a. ~~For all utilities, loss~~ Loss of service for more than six hours to substantially all of a municipality, including the surrounding area served by the same utility. A utility may use loss of service to 75 percent or more of customers within a municipality, including the surrounding area served by the utility, to meet this criterion;
- b. ~~For utilities with 50,000 or more customers, loss~~ Loss of service for more than six hours to 20 percent of the customers in a utility's established zone or loss of service to more than 5,000 customers in a metropolitan area, whichever is less;
- c. ~~For utilities with more than 4,000 customers and fewer than 50,000 customers, loss of service for more than six hours to 25 percent or more of the utility's customers;~~
- d. ~~c.~~ A major event as defined in subrule 20.18(4); or
- e. ~~d.~~ Any other outage considered significant by the electric utility. This includes loss of service for more than six hours to significant public health and safety facilities known to the utility at the time of the notification, even when the outage does not meet the criteria in paragraphs 20.19(1) "a" through "d." and "b."

ITEM 13. Adopt the following new rule 199—20.21(476):

199—20.21(476) Transmission cost adjustment (TCA).

20.21(1) Transmission cost adjustment. Pursuant to Iowa Code section 476.6(8) "b," public utilities may automatically adjust rates and charges to recover transmission-related costs incurred by or charged to the public utility consistent with a tariff or agreement that is subject to the jurisdiction of the Federal Energy Regulatory Commission, provided that a schedule showing the automatic adjustment of rates and charges is first filed with and approved by the board. Transmission cost adjustments shall be computed and tracked separately for each customer classification or grouping previously approved by the board and shall use the same unit of measure as the utility's tariffed rates. Changes in the customer classification and grouping on file are not automatic and require prior approval by the board. If any eligible cost is recovered outside of the TCA, the cost may not be recovered through the TCA until the cost is removed from its current recovery mechanism. If any eligible cost is recovered outside of the TCA, the cost may not be recovered through the TCA until the cost is removed from base rates during a utility's rate case. The TCA factor shall be included as a separate line item on the customer's bill.

20.21(2) TCA annual factor. An annual TCA factor update shall be filed as a TF docket at least 30 days prior to the beginning of the utility's TCA year. The TCA update shall include information describing which eligible TCA costs are being recovered through the TCA and, if not recovered through the TCA, where eligible costs are being recovered. The annual TCA factors for each customer classification or grouping shall be based upon forecasted transmission costs allocated to Iowa retail customers, forecasted Iowa sales or demand, and allocation factors approved by the board. The forecasted allocation factors shall be based on a three-year average of the actual allocation factors for each of the three previous calendar years. For customers billed by kilowatt-hours, the factors shall be

UTILITIES DIVISION[199](cont'd)

developed on a kilowatt-hour basis. For customers billed by kilowatt, the factors shall be developed on a kilowatt basis. In addition, the following is required to be included with this filing:

a. A listing of all transmission costs that are incurred by or charged to the public utility and are consistent with a tariff or agreement that is subject to the jurisdiction of the Federal Energy Regulatory Commission, detailing where each transmission cost is currently being recovered (e.g., base rates, TCA).

b. A time series chart of each transmission cost eligible for inclusion in the TCA for the previous three calendar years.

20.21(3) Annual reconciliation. Within four months after the effective date of annual TCA factors, a utility shall file an annual reconciliation based upon actual costs and revenues attributed to Iowa customers for the prior calendar year. The annual reconciliation shall be filed in the same TF docket identified for the annual filing required in subrule 20.21(2). The reconciliation shall include updated allocators for each customer classification or grouping based on actual load data from the prior calendar year. The actual costs for the prior calendar year shall be allocated to each customer class based upon the updated allocation factors. The utility shall compare the actual transmission costs allocated to each customer class with the actual revenue billed through the TCA by customer class net of the prior year's reconciliation dollar amount for each customer class. Any resulting overcollection or undercollection for each class shall be divided by the forecasted sales or demand for each customer class for the remainder of the TCA period. The resulting adjustments shall be added to the effective TCA factors which were approved in the TCA annual factor filing under subrule 20.21(2). The adjusted TCA factor for customers billed by kilowatt-hours shall be developed on a kilowatt-hour basis, and for customers billed on a kilowatt basis, the adjusted TCA factor shall be developed on a kilowatt basis.

20.21(4) Other adjustments to the TCA factor. A utility may propose other adjustments to the TCA factor throughout the 12-month TCA period to assist with accurate recovery of forecasted costs and revenues, subject to board approval. Any midyear adjustments shall be filed in the same TF docket as the annual filing. If a utility proposes an adjustment to the TCA factor, other than the reconciliation required in subrule 20.21(3), the utility shall provide an explanation for the proposed adjustment and provide information to support the proposed adjustment. For any customer billed by kilowatt-hours, the proposed adjustment shall be developed on a kilowatt-hour basis. For any customer billed on a kilowatt basis, the proposed adjustment shall be developed on a kilowatt basis.

20.21(5) Quarterly informational filings. By the end of the month following the end of each calendar quarter, the utility shall file a report containing, at minimum, the current cumulative overcollection or undercollection balance, support for the overcollection or undercollection calculation, the total transmission cost for the current calendar year by category, and the supporting invoices and documentation for the most recent calendar quarter. The reports shall be filed in the same TF docket as the annual TCA filing.

20.21(6) Semiannual transmission reports. Each year at the beginning, and midpoint of a utility's TCA year, each utility shall file a report detailing the utility's transmission-related activities. These reports shall detail the utility's recent efforts to mitigate transmission costs and influence policy to the benefit of the utility and its ratepayers.

20.21(7) Midcontinent Independent System Operator, Inc. (MISO) refunds. Any utility utilizing a TCA mechanism that receives transmission-related refunds from MISO shall file a refund plan for board approval, detailing how the utility will distribute the refund to customers. The refund plan must be filed once the amount and timing of the refund is known to the utility. The refund plan shall include an applicable interest rate for refund amounts held more than 30 days, the method of distributing the refund to customers, and the timing of distributing the refund to customers.

[Filed 10/12/21, effective 12/8/21]

[Published 11/3/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/3/21.

AGENCY	RULE	DELAY
Revenue Department[701]	230.2(1) [IAB 9/8/21, ARC 5906C]	Effective date of October 13, 2021, delayed until the adjournment of the 2022 session of the General Assembly by the Administrative Rules Review Committee at its meeting held October 4, 2021. [Pursuant to §17A.8(9)]