IOWA ADMINISTRATIVE BULLETIN

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PREFACE

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

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

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

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

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CITATION of Administrative Rules

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

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

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

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

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

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

Schedule for Rule Making
2020

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

PRINTING SCHEDULE FOR IAB

ISSUE NUMBER	SUBMISSION DEADLINE	ISSUE DATE
13	**Friday, November 27, 2020**	**December 16, 2020**
14	**Wednesday, December 9, 2020**	**December 30, 2020**
15	**Wednesday, December 23, 2020**	**January 13, 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, December 10, 2020, at 9 a.m. in Room 103, State Capitol, Des Moines, Iowa. Instructions for participation by videoconference can be found here: www.legis.iowa.gov/committees/meetings/meetingsListComm?groupID=705&ga=88&session=2. For more information, contact Jack Ewing at Jack.Ewing@legis.iowa.gov. The following rules will be reviewed:

NOTE: See also Supplemental Agenda to be published in the December 2, 2020, Iowa Administrative Bulletin.

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Waivers, 9.1, 9.4, 9.6, 9.9, 9.10, 9.13, 100.1, 117.21(1), 118.16(1) Notice **ARC 5243C** 11/4/20

ALCOHOLIC BEVERAGES DIVISION[185]

COMMERCE DEPARTMENT[181]"umbrella"

Administrative actions unit; permit general requirements; contested cases, 4.2, amendments to ch 10 Notice **ARC 5242C** 11/4/20
Waivers, 19.1 Notice **ARC 5241C** 11/4/20

CORRECTIONS DEPARTMENT[201]

Community-based corrections; OWI program, 40.1, 40.2, 47.1(4), 47.2(3) Filed **ARC 5247C** 11/4/20

DENTAL BOARD[650]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Clinical examinations on manikins; dental and dental hygiene applicant examinations, 11.2(2), 11.3(2), 11.5(2), 11.6(2), 11.7, 12.1, 12.4 Notice **ARC 5264C** 11/4/20

ECONOMIC DEVELOPMENT AUTHORITY[261]

Apprenticeships, amend chs 12, 13; adopt ch 14 Notice **ARC 5279C** 11/18/20

ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

NPDES general permit no. 5, 64.15(5) Filed **ARC 5283C** 11/18/20
NPDES general permit no. 7, 64.15(7) Filed **ARC 5284C** 11/18/20

HUMAN SERVICES DEPARTMENT[441]

Child support recovery unit—administrative appeals procedures, amendments to chs 9, 95 to 100 Notice **ARC 5274C** 11/18/20
Billing of physician assistant services, 77.49, 78.1 Notice **ARC 5276C** 11/18/20
Family-centered services, amend chs 80, 133, 172, 175; rescind ch 186 Filed **ARC 5248C** 11/4/20
HCBS elderly waiver budget cap, 83.22(2)"c," 83.28 Notice **ARC 5277C** 11/18/20
Aftercare services program, 187.2(3)"c," 187.3 Notice **ARC 5275C** 11/18/20
Foster care placement and services—definition of "case permanency plan," 202.1 Filed **ARC 5249C** 11/4/20

INSPECTIONS AND APPEALS DEPARTMENT[481]

Inspection standards for food establishments—adoption by reference of 2017 food code, 30.2, 31.1, 31.4 Notice **ARC 5262C** 11/4/20
Food and consumer safety—stand operated by a minor, 30.2 Notice **ARC 5263C** 11/4/20
Consumable hemp products, ch 32 Notice **ARC 5265C** 11/4/20

INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]"umbrella"

Licensing—producers, viatical settlement brokers, viatical settlement providers, public adjusters, amendments to chs 10, 48, 55, 58 Filed **ARC 5250C** 11/4/20

MEDICINE BOARD[653]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Iowa physician health committee and program, amendments to ch 14 Filed **ARC 5251C** 11/4/20
Physician supervision of physician assistants, 21.1, 21.4 Filed **ARC 5252C** 11/4/20

NURSING BOARD[655]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Administrative and regulatory authority—hiring and supervising of executive director, 1.3(2)"j" Filed **ARC 5285C** 11/18/20
Nursing education programs—preceptors, 2.1, 2.4(2), 2.15 to 2.18 Filed **ARC 5286C** 11/18/20
Waivers, amendments to ch 15 Notice **ARC 5282C** 11/18/20

PROFESSIONAL LICENSURE DIVISION[645]
PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Speech pathologists and audiologists—continuing education hours, 303.3(2)"f" Filed **ARC 5268C** 11/4/20

PUBLIC HEALTH DEPARTMENT[641]

Plumbing and mechanical systems professionals—continuing education, waivers, petitions, amendments to chs 30, 31, 36 Notice **ARC 5278C** 11/18/20
School dental screenings, 51.9 Notice **ARC 5270C** 11/18/20
Waivers, amendments to chs 69, 131, 132, 134 to 136, 139, 144, 150, 173 Notice **ARC 5271C** 11/18/20

PUBLIC SAFETY DEPARTMENT[661]

Governor's traffic safety bureau, amendments to ch 20 Filed **ARC 5253C** 11/4/20
Smoke alarms/detectors, ch 210 Filed **ARC 5254C** 11/4/20
Commercial explosive contractor and blaster licensure, amendments to ch 235 Notice **ARC 5280C** 11/18/20
Consumer fireworks sales licensing and safety standards, 265.20, 265.23, 265.26, 265.27, 265.31, 265.40 to 265.43, 265.51(4) Filed **ARC 5255C** 11/4/20
Fire protection and alarm system contractor and technician licensure, amendments to chs 275 to 277 Notice **ARC 5273C** 11/18/20
Standards for electrical work—2020 National Electrical Code (NEC), ch 504 Filed **ARC 5287C** 11/18/20

RACING AND GAMING COMMISSION[491]
INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella"

Waivers; petitions for rule making; licensee responsibilities; sports and other wagering; gambling games; electronic wagering accounts; fantasy sports contests, amendments to chs 1, 2, 5, 8, 11 to 14 Notice **ARC 5269C** 11/18/20

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Licensure; eligibility determinations; waivers; petitions for rule making; public records, amend chs 1, 3 to 7, 18, 20, 22, 25, 26; adopt ch 13 Notice **ARC 5261C** 11/4/20

REVENUE DEPARTMENT[701]

Local assessors, 7.37, 71.27, 71.28, 72.15, 72.16 Filed **ARC 5288C** 11/18/20
Transmittal of declaration of value forms, 79.3(3) Filed **ARC 5289C** 11/18/20
Collection of court debt, ch 155 Notice **ARC 5272C** 11/18/20

SECRETARY OF STATE[721]

Notary public training, 43.5(3) Notice **ARC 5260C**, also Filed Emergency **ARC 5259C** 11/4/20

TRANSPORTATION DEPARTMENT[761]

Public records—request for records, confidentiality, copies, 4.3, 4.9 Notice **ARC 5246C** 11/4/20
Competition with private enterprise—removal of rest area sponsorship program, 25.2(8) Filed **ARC 5256C** 11/4/20
Adopt-a-highway program—online information, sponsors, 121.2, 121.3, 121.5, 121.6(1) Notice **ARC 5245C** 11/4/20
Rights-of-way; primary road extensions, 150.2, 150.3, 150.5(1) Notice **ARC 5244C** 11/4/20
Abandoned vehicles, amendments to ch 480 Filed **ARC 5257C** 11/4/20
Motorized bicycle rider education, 602.2(1), 636.1, 636.2, 636.4 to 636.9 Filed **ARC 5258C** 11/4/20

UTILITIES DIVISION[199]
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Restoration of agricultural lands during and after pipeline construction, ch 9 Notice **ARC 5266C** 11/4/20
Electric vehicle charging service, 20.20 Notice **ARC 5267C** 11/4/20
Regulation of municipal electric utilities and electric cooperatives under Iowa Code chapter 476, ch 27 Notice **ARC 5281C** 11/18/20

ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

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

Senator Waylon Brown
109 South Summer Street
St. Ansgar, Iowa 50472

Senator Mark Costello
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Imogene, Iowa 51645

Senator Robert Hogg
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Des Moines, Iowa 50317

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

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Waivers, 9.1, 9.4, 9.6, 9.9, 9.10, 9.13, 100.1, 117.21(1), 118.16(1) IAB 11/4/20 **ARC 5243C**	Via Google Meet: meet.google.com/omm-iprc-ubi Via phone: +1.651.571.1274 PIN: 568-259-031# Mute phones or microphones upon entering the meeting	November 24, 2020 10 to 11 a.m.

RACING AND GAMING COMMISSION[491]

Waivers; petitions for rule making; licensee responsibilities; sports and other wagering; gambling games; electronic wagering accounts; fantasy sports contests, amendments to chs 1, 2, 5, 8, 11 to 14 IAB 11/18/20 **ARC 5269C**	Commission Office, Suite 100 1300 Des Moines St. Des Moines, Iowa	December 8, 2020 9 a.m.

REAL ESTATE APPRAISER EXAMINING BOARD[193F]

Licensure; eligibility determinations; waivers; petitions for rule making; public records, amend chs 1, 3 to 7, 18, 20, 22, 25, 26; adopt ch 13 IAB 11/4/20 **ARC 5261C**	Small Conference Room, Third Floor 200 E. Grand Ave. Des Moines, Iowa	November 24, 2020 10 to 11 a.m.

REVENUE DEPARTMENT[701]

Collection of court debt, ch 155 IAB 11/18/20 **ARC 5272C**	Via Google Meet: meet.google.com/dhy-xxna-fug Via phone: +1.402.624.0127 PIN: 780-722-322# Mute your phones or microphones upon entering the meeting	December 8, 2020 1 to 2 p.m.

TRANSPORTATION DEPARTMENT[761]

Public records—request for records, confidentiality, copies, 4.3, 4.9 IAB 11/4/20 **ARC 5246C**	Via conference call Contact Tracy George Email: tracy.george@iowadot.us	November 30, 2020 1 to 2 p.m. (If requested)
Adopt-a-highway program—online information, sponsors, 121.2, 121.3, 121.5, 121.6(1) IAB 11/4/20 **ARC 5245C**	Via conference call Contact Tracy George Email: tracy.george@iowadot.us	November 30, 2020 9 to 10 a.m. (If requested)
Rights-of-way; primary road extensions, 150.2, 150.3, 150.5(1) IAB 11/4/20 **ARC 5244C**	Via conference call Contact Tracy George Email: tracy.george@iowadot.us	November 30, 2020 10:30 to 11:30 a.m. (If requested)

UTILITIES DIVISION[199]

Restoration of agricultural lands during and after pipeline construction, ch 9 IAB 11/4/20 **ARC 5266C**	Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa	December 1, 2020 1:30 to 4:30 p.m.
Electric lines, 11.2, 11.3(3), 11.5(1)"d"(6) IAB 10/7/20 **ARC 5217C**	Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa	December 3, 2020 9 a.m. to 12 noon (If requested)
Electric vehicle charging service, 20.20 IAB 11/4/20 **ARC 5267C**	Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa	December 21, 2020 1 to 4 p.m.
Regulation of municipal electric utilities and electric cooperatives under Iowa Code chapter 476, ch 27 IAB 11/18/20 **ARC 5281C**	Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa	February 4, 2021 9 a.m. to 12 noon

The following list will be updated as changes occur.

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

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

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

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ARC 5279C

ECONOMIC DEVELOPMENT AUTHORITY[261]

Notice of Intended Action

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

The Economic Development Authority hereby proposes to amend Chapter 12, "Apprenticeship Training Program," and Chapter 13, "Future Ready Iowa Registered Apprenticeship Development Fund," and to adopt new Chapter 14, "Future Ready Iowa Expanded Registered Apprenticeship Opportunities Program," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in 2020 Iowa Acts, House File 2629.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 15C.

Purpose and Summary

2020 Iowa Acts, House File 2629, creates new Iowa Code section 15C.2, the Future Ready Iowa Expanded Registered Apprenticeship Opportunities Program, and directs the Authority to promulgate rules. The purpose of the program is to encourage sponsors of apprenticeship programs with 20 or fewer apprentices to maintain programs in high-demand occupations. The Act also amends Iowa Code chapter 15B and section 15C.1 to exclude apprenticeship sponsors from participating in more than one apprenticeship program administered by the Authority in the same fiscal year.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. No funds have been appropriated for the program.

Jobs Impact

After analysis and review of this rule making, the Authority has determined that if the Legislature appropriates funds for the program, this rule making will positively impact jobs in the state of Iowa by implementing the administration of a program designed to support apprentices and businesses in high-demand jobs.

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Authority no later than 4:30 p.m. on December 8, 2020. Comments should be directed to:

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

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Adopt the following **new** subrule 12.5(4):

12.5(4) An apprenticeship sponsor receiving financial assistance under Iowa Code chapter 15C is ineligible for financial assistance under this chapter during the same fiscal year.

ITEM 2. Amend paragraph **13.4(1)"b"** as follows:

b. An apprenticeship sponsor receiving financial assistance under Iowa Code chapter 15B or section 15C.2 is ineligible for financial assistance under this chapter during the same fiscal year.

ITEM 3. Adopt the following **new** 261—Chapter 14:

CHAPTER 14
FUTURE READY IOWA EXPANDED REGISTERED
APPRENTICESHIP OPPORTUNITIES PROGRAM

261—14.1(15C) Purpose. Pursuant to Iowa Code section 15C.2, the authority is directed to administer a future ready Iowa expanded registered apprenticeship opportunities program. The purpose of the program is to provide financial assistance to encourage apprenticeship sponsors of apprenticeship programs with 20 or fewer apprentices to maintain apprenticeship programs in high-demand occupations.

261—14.2(15C) Definitions. For purposes of this chapter, unless the context otherwise requires:

"Agreement" means a contract for financial assistance under the program describing the terms on which the financial assistance is to be provided.

"Applicant" means a new or existing apprenticeship sponsor located in Iowa that has established an apprenticeship program involving an eligible apprenticeable occupation that is located in Iowa and approved by the United States Department of Labor, Office of Apprenticeship.

"Apprentice" means a person who is at least 16 years of age, except where a higher minimum age is required by law, who is employed in an apprenticeable occupation, and is registered in Iowa with the United States Department of Labor, Office of Apprenticeship.

"Apprenticeable occupation" means an occupation approved for apprenticeship by the United States Department of Labor, Office of Apprenticeship.

"Apprenticeship program" means a program registered with the United States Department of Labor, Office of Apprenticeship, which includes terms and conditions for the qualification, recruitment, selection, employment, and training of apprentices, including the requirement for a written apprenticeship agreement.

"Apprenticeship sponsor" means an entity operating an apprenticeship program or an entity in whose name an apprenticeship program is being operated, which is registered with or approved by the United States Department of Labor, Office of Apprenticeship.

"Authority" means the economic development authority created in Iowa Code section 15.105.

"Director" means the director of the authority.

"Eligible apprenticeable occupation" means an apprenticeable occupation identified by the workforce development board or a community college, pursuant to Iowa Code section 84A.1B, as a high-demand job, after consultation with the authority.

"Financial assistance" means assistance provided only from the funds, rights, and assets legally available to the authority and includes but is not limited to assistance in the form of a reimbursement grant of $1,000 per apprentice in an eligible apprenticeable occupation.

"Program" means the procedures, agreement, terms, and assistance established and provided pursuant to this chapter.

261—14.3(15C) Program description.

14.3(1) *Amount, form, and timing of assistance.*

a. Financial assistance received by an apprenticeship sponsor under this chapter shall be used only for the cost of conducting and maintaining an apprenticeship program.

b. Applicants are eligible to apply for grant awards annually based on the number of apprentices in an eligible apprenticeable occupation who are active in their program or who have completed a registered apprenticeship program in the calendar year prior to the applicant window. Applicants will receive $1,000 per active or completed apprentice in their program, up to $20,000.

14.3(2) *Application.*

a. *Forms.* All applications and other filings related to the program shall be on such forms and in accordance with such instructions as may be established by the authority. Information about the program, the application, and application instructions may be obtained by contacting the authority or by visiting the authority's website:

Iowa Economic Development Authority
1963 Bell Avenue, Suite 200
Des Moines, Iowa 50315
(515)348-6200
iowaeda.com

b. *Application requirements.* An apprenticeship sponsor seeking financial assistance under these rules shall provide the following information to the authority:

(1) The address and federal apprentice registration number of each apprentice who was actively training in the apprenticeship program as of December 31 of the year prior to submitting the application or completed training during the calendar year prior to submitting the application.

(2) The address and a description of the physical location where in-person training is conducted.

(3) A certification of the apprenticeship sponsor's training standards as most recently approved by the United States Department of Labor, Office of Apprenticeship.

(4) A certification of the apprenticeship sponsor's compliance review or quality assessment as most recently conducted by the United States Department of Labor, Office of Apprenticeship, unless the apprenticeship sponsor has not been subjected to a compliance review or quality assessment.

(5) A program budget including how financial assistance awarded under the program will be used.

(6) Any other information the authority reasonably requires to determine eligibility and to make award determinations.

c. *Application period.* Each fiscal year during which funding is available, applications for financial assistance will only be accepted between January 1 and February 1 of each calendar

year following the start of the fiscal year. The authority may adjust these dates under extenuating circumstances and will notify affected parties. The authority may add a funding window if available funds are not exhausted during the initial submission window and will publish such application dates on the authority's website.

d. *Complete application required.* An application shall not be considered submitted for review until the application is completed and all required supporting documentation and information are provided to the authority.

14.3(3) *Application review.* If the amount of funding requested by eligible applicants exceeds the amount of funding available to the authority in any given fiscal year, authority staff will make recommendations to the director as to allocation of available funding based on the scoring criteria described in subrule 14.4(2). The authority may deny applications for incompleteness or because of insufficient funds.

261—14.4(15C) Program eligibility, application scoring, and awards.

14.4(1) *Program eligibility.*

a. To be considered for an award under this program, an apprenticeship program sponsor must meet the following eligibility requirements:

(1) The apprenticeship sponsor has an apprenticeship program with at least one eligible apprenticeable occupation.

(2) Twenty or fewer apprentices are registered in the apprenticeship program as of December 31 of the calendar year prior to the date the authority receives the eligible apprenticeship sponsor's application. Apprentices are considered registered in the program as of December 31 if they were actively training as of December 31 or completed training during the calendar year prior to the date the authority receives the apprenticeship sponsor's application.

(3) More than 70 percent of the applicant's apprentices are residents of Iowa, and the remainder of the applicant's apprentices are residents of states contiguous to Iowa. In determining the number of apprentices in an applicant's apprenticeship program for the purposes of determining the percentage of Iowa residents, the authority may calculate the average number of apprentices in the program within the most recent two-year period.

b. An apprenticeship sponsor receiving financial assistance under Iowa Code chapter 15B or section 15C.1 is ineligible for financial assistance under these rules during the same fiscal year.

c. An apprenticeship sponsor who trains through a lead apprenticeship sponsor that qualifies for financial assistance under Iowa Code chapter 15B is ineligible to receive financial assistance under these rules.

14.4(2) *Application scoring criteria.* Applications for financial assistance under the program shall be reviewed and scored as described below. To be considered eligible for funding, an application must receive a minimum score of 65 out of a possible 100 points and meet all other eligibility criteria specified in these rules. If an applicant does not meet all eligibility requirements, the application will not be scored.

a. *Budget and costs.* The extent to which the applicant's budget and estimated or real program costs are based on industry standards for the eligible occupation. (maximum 30 points)

b. *Application of financial assistance.* The applicant has provided specific details regarding the use of funding and how it will be applied. (maximum 30 points)

c. *Local support.* The applicant has provided documentation of local support from area partners, such as schools, local government entities, and other employers that may benefit from the apprenticeship program. (maximum 10 points)

d. *Additional funding.* The authority will take into consideration sources of funding for establishing an apprenticeable occupation. Scores will be based on whether the source of funding is public or private, whether the funding is repayable, and the proportion of internal funding to funding from other sources. Higher scores will be awarded if the source of funding is a private entity, if the funding is repayable, and if the amount of internal funding is more than 50 percent of funding needed to establish the apprenticeable occupation. (maximum 10 points)

e. Certification of worker safety. The applicant has not violated state or federal statutes, rules or regulations, including environmental wand worker safety regulations, or if such violations have occurred, the violations have been addressed and mitigated. (maximum 10 points)

f. Certification of employment at an Iowa work site. The applicant has certified that the apprentices identified by their U.S. Department of Labor identification numbers and represented in the application are registered with the applying sponsor or lead sponsor's registered apprenticeship program and that each apprentice listed worked some time in Iowa during the prior calendar year. (maximum 10 points)

14.4(3) *Financial assistance awards.*

a. Director approval. The director will make final funding decisions after considering the recommendations of staff. Successful applicants will be notified in writing of an award of financial assistance, including the conditions and terms of approval.

b. Disbursement of funds. The authority will disburse funds to a successful applicant only after approval of a completed application and execution of an agreement between the applicant and the authority pursuant to this chapter. Prior to disbursement of funds, the applicant must provide the authority with confirmation of expenses and the authority must confirm that all terms for financial assistance have been met.

c. Form of financial assistance. The authority will provide financial assistance in the form of a grant to the applicant. The amount of the grant and any other terms shall be included in the agreement required pursuant to this chapter.

d. Use of funds. An applicant shall use funds only for reimbursement of the costs directly related to the project. The authority may require documentation or other information establishing the actual costs incurred for a project. Failure to use the funds for reimbursement of the costs directly related to a project shall be grounds for default under the agreement required pursuant to this chapter.

261—14.5(15C) Agreement required.

14.5(1) Each applicant that is approved for financial assistance under the program shall enter into an agreement with the authority for the provision of such financial assistance. The agreement will establish the terms on which the financial assistance is to be provided and may include any other terms reasonably necessary for the efficient administration of the program.

14.5(2) The authority and the applicant may amend the agreement at any time upon the mutual agreement of both the authority and the applicant.

14.5(3) The agreement may require an applicant that has been approved for financial assistance under the program to submit information reasonably required by the authority to make reports to the authority's board, the governor's office, or the general assembly.

These rules are intended to implement Iowa Code section 15C.2.

ARC 5274C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to child support recovery unit administrative appeal procedures and providing an opportunity for public comment

The Human Services Department hereby proposes to amend Chapter 9, "Public Records and Fair Information Practices," Chapter 95, "Collections," Chapter 96, "Information and Records," Chapter 97, "Collection Services Center," Chapter 98, "Support Enforcement Services," Chapter 99, "Support Establishment and Adjustment Services," and Chapter 100, "Child Support Promoting Opportunities for Parents Program," Iowa Administrative Code.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code chapter 17A and sections 217.6, 252B.3 to 252B.5 and 252B.9.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 17A and sections 217.6, 252B.3 to 252B.5 and 252B.9.

Purpose and Summary

This rule making proposes amendments to Chapters 9, 95, 96, 97, 98, 99 and 100 to maintain current Child Support Recovery Unit (CSRU) administrative appeal procedures in light of the recent changes to the appeal rules in Chapter 7. This rule making also reorganizes various rules in Chapters 95 and 98. These amendments will better organize those chapters by keeping all collection rules in Chapter 95 and all enforcement rules in Chapter 98. This rule making proposes new rule 441—98.84(252B) and rescinds rule 441—99.26(252F) to remove outdated and duplicative language. None of the proposed amendments make changes to current CSRU procedures.

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 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 December 8, 2020. Comments should be directed to:

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

Public Hearing

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or

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

The following rule-making actions are proposed:

ITEM 1. Amend subrule 9.10(10) as follows:

9.10(10) *Child support recovery.* The child support recovery unit has access to information from most department records for the purpose of establishing and enforcing support obligations. Information about absent parents and recipients of child support services is released according to the provisions of Iowa Code chapters 234, 252A, 252B, 252C, 252D, 252E, 252F, 252G, 252H, 252I, 252J, 252K, 598, 600B, and any other support chapter. Information is also released to consumer reporting agencies as specified in rule ~~441—95.12(252B)~~ 441—98.116(252B).

ITEM 2. Rescind the definitions of "Consumer reporting agency," "Delinquent support," "Federal nontax payment," and "Payor of income" in rule **441—95.1(252B)**.

ITEM 3. Amend rule 441—95.3(252B), introductory paragraph, as follows:

441—95.3(252B) Crediting of current and delinquent support. The amounts received as support from the obligor shall be credited as the required support obligation for the month in which they are collected. Any excess shall be credited as delinquent payments and shall be applied to the immediately preceding month, and then to the next immediately preceding month until all excess has been applied. Funds received as a result of federal tax offsets shall be credited according to rule ~~441—95.7(252B)~~ 441—98.84(252B).

ITEM 4. Rescind and reserve rules **441—95.6(252B)**, **441—95.7(252B)**, **441—95.8(96)** and **441—95.12(252B)**.

ITEM 5. Amend paragraph **95.13(3)"b"** as follows:

b. The time limit for initiating an administrative appeal shall be governed by 441—subrule ~~7.5(4)~~ 7.4(3). The time limit provided in 441—subrule ~~7.5(4)~~ 7.4(3) shall start with the date that a written decision as required by subrule 95.13(2) is issued.

ITEM 6. Adopt the following **new** rule 441—95.26(17A):

441—95.26(17A) Right of appeal.

95.26(1) Under this chapter, an administrative appeal pursuant to 441—Chapter 7 shall be limited to the following issues:

a. A person is not entitled to a support payment in full or in part because of the date of collection, as provided under rule 441—95.13(17A), or a dispute based on the date of collection has not been acted on in a timely manner.

b. A termination in services has occurred as provided in rule 441—95.14(252B).

95.26(2) A hearing shall not be granted under 441—Chapter 7 when the appellant has a complaint about child support recovery unit collections actions other than those described in this rule. This includes the collection of an annual fee for child support services as specified in Iowa Code chapter 252B.

This rule is intended to implement Iowa Code sections 17A.12 to 17A.20.

ITEM 7. Adopt the following **new** rule 441—95.27(17A):

441—95.27(17A) Appeal record. The record in an administrative appeal under this rule shall include, in addition to those materials specified in Iowa Code section 17A.12(6), the notice of appeal, all evidence received or considered and all other submissions, including the verbatim record of the hearing.

This rule is intended to implement Iowa Code section 17A.12.

ITEM 8. Adopt the following **new** rule 441—96.7(17A):

441—96.7(17A) Right of appeal. Department actions under this chapter are not subject to administrative appeal under 441—Chapter 7.

ITEM 9. Amend **441—Chapter 96**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 17A and section 252B.9.

ITEM 10. Adopt the following **new** rule 441—97.8(17A):

441—97.8(17A) Right of appeal. Department actions under this chapter are not subject to administrative appeal under 441—Chapter 7.

ITEM 11. Amend **441—Chapter 97**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 17A and sections 252B.13A through 252B.17 and ~~section~~ 252D.17.

ITEM 12. Amend **441—Chapter 98**, chapter preamble, as follows:

PREAMBLE

~~In addition to the enforcement services described in 441—Chapter 95, "Collections," the~~ The child support recovery unit is charged with the responsibility to provide the enforcement services delineated in this chapter.

ITEM 13. Adopt the following **new** rule 441—98.47(96):

441—98.47(96) Child support intercept of unemployment insurance benefits. When the department of workforce development notifies the child support recovery unit that an individual who owes a child support obligation being enforced by the unit has been determined to be eligible for unemployment insurance benefits, the unit will enforce a child support obligation that is owed by an obligor but is not being met by intercept of unemployment insurance benefits. "Owed but not being met" means either current child support not being met or arrearages that are owed.

98.47(1) *Withholding.* The child support recovery unit shall intercept unemployment insurance benefits by initiating a withholding of income pursuant to Iowa Code chapter 252D and this division. The amount to be withheld through a withholding of unemployment insurance benefits shall not exceed the amount specified in 15 U.S.C. 1673(b).

98.47(2) *Provision of receipt.* A receipt of the payments intercepted through unemployment insurance benefits will be provided once a year, upon the obligor's request to the child support recovery unit.

This rule is intended to implement Iowa Code section 96.3 and 15 U.S.C. 1673(b).

ITEM 14. Amend **441—Chapter 98, Division VI,** title, as follows:

DIVISION VI
~~DEBTOR~~ OFFSET

ITEM 15. Renumber rule **441—98.81(252B)** as **441—98.82(252B)**.

ITEM 16. Adopt the following **new** rule 441—98.81(252B):

441—98.81(252B) Definitions.

"Delinquent support" means a payment, or portion of a payment, including interest, not received by the clerk of the district court or other designated agency at the time it was due. In addition, delinquent support shall also include payments for parental liabilities not received as specified pursuant to rule 441—156.2(234).

"Federal nontax payment" means an amount payable by the federal government which is subject to administrative offset for support under the federal Debt Collection Improvement Act, Pub. L. No. 104-134.

"Mistake of fact" means a mistake in the identity of the obligor or whether the delinquency meets the criteria for referral.

This rule is intended to implement Iowa Code chapter 252B.

ITEM 17. Amend renumbered subrule 98.82(3) as follows:

98.82(3) *Appeal process.* An obligor may contest the department's claim by submitting a written request to the department. A hearing shall be granted pursuant to rules in 441—Chapter 7 if the obligor's request is submitted within 15 days of the date of the preoffset notice. Except as specifically provided in this rule, administrative appeals will be governed by 441—Chapter 7. The issue on appeal shall be limited to a mistake of fact. Any other issue may be determined only by a court of competent jurisdiction.

ITEM 18. Amend renumbered subrule 98.82(4) as follows:

98.82(4) *Joint owner.* A joint owner's proportionate share of the payment, as determined by the department ~~of administrative services~~, shall be released unless other claims are made on that portion of the payment. The department must receive a request for release of a joint owner's share within 15 days of the date of the preoffset notice. The request may be made by either owner.

ITEM 19. Amend renumbered subrule 98.82(7) as follows:

98.82(7) *Percentage of payment offset.* The amount of offset shall be 50 percent of the total payment due the obligor, unless the payment results from lottery winnings, from gambling winnings, from sports wagering winnings, or from a payment for a claim under treasurer of state rules on unclaimed property at 781—Chapter 9, in which case the amount of offset shall be 100 percent of the payment. The amount taken shall not exceed the delinquent amount owed by the obligor.

ITEM 20. Adopt the following **new** rule 441—98.83(252B):

441—98.83(252B) Offset against state income tax refund or rebate. The department will make a claim against an obligor's state income tax refund or rebate when a support payment is delinquent as set forth in 11—Chapter 40. A claim against an obligor's state income tax refund or rebate shall apply to support which the department is attempting to collect.

98.83(1) By the first day of each month, the department shall submit to the department of administrative services a list of obligors who are delinquent at least $50 in support payments.

98.83(2) When the department claims an obligor's state income tax refund or rebate, the department shall send a preoffset notice to the obligor to inform the obligor of the amount the department intends to claim and apply to support. The department shall send a preoffset notice when:

a. The department of administrative services notifies the department that the obligor is entitled to a state income tax refund or rebate; and

b. The obligor has a delinquency of $50 or greater.

98.83(3) When the obligor wishes to contest a claim, a written request shall be submitted to the department within 15 days of the date of the preoffset notice. When the request is received within the 15-day limit, a hearing shall be granted pursuant to rules in 441—Chapter 7. Except as specifically provided in this rule, administrative appeals will be governed by 441—Chapter 7. The issue on appeal shall be limited to a mistake of fact. Any other issue may be determined only by a court of competent jurisdiction.

98.83(4) The spouse's proportionate share of a joint return filed with an obligor, as determined by the department of revenue, shall be released by the department of revenue unless other claims are made on that portion of the joint income tax refund. The request for release of a spouse's proportionate share shall be received by the department within 15 days of the date of the preoffset notice.

98.83(5) The department shall refund any amount incorrectly offset to the obligor unless the obligor agrees in writing to apply the refund of the incorrect offset to any other support obligation due.

98.83(6) The department shall notify an obligor of the final decision regarding the claim against the tax refund or rebate by sending a final disposition of support recovery claim notice to the obligor.

98.83(7) Offsets shall be applied as provided in rule 441—95.3(252B).

This rule is intended to implement Iowa Code sections 8A.504, 252B.3, 252B.4 and 252B.5(4).

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 21. Adopt the following **new** rule 441—98.84(252B):

441—98.84(252B) Offset against federal income tax refund and federal nontax payment. The department will make a claim against an obligor's federal income tax refund or federal nontax payment when delinquent support is owed. For purposes of this offset, delinquent support shall include the entire balance of a judgment for accrued support, as provided in Iowa Code section 252B.5(4).

98.84(1) *Amount of assigned support.* If the delinquent support is assigned to the department, the amount of delinquent support shall be at least $150, calculated by combining the assigned delinquent support in all of the obligor's cases in which the assigned delinquent support is at least $50.

98.84(2) *Amount of nonassigned support.* If delinquent support is not assigned to the department, the claim shall be made if the amount of delinquent support is at least $500, calculated by combining the nonassigned delinquent support in all of the obligor's cases in which the nonassigned delinquent support is at least $50.

a. The amount distributed to an obligee shall be the amount remaining following payment of a support delinquency assigned to the department. The department shall distribute to an obligee the amount collected from an offset according to subrule 98.84(9) within the following time frames:

(1) Within six months from the date the department applies an offset amount from a joint income tax refund to the child support account of the responsible person, or within 15 days of the date of resolution of an appeal under subrule 98.84(8), whichever is later, or

(2) Within 30 days from the date the department applies an offset amount from a single income tax refund to the child support account of the responsible person, or within 15 days of the date of resolution of an appeal under subrule 98.84(8), whichever is later.

(3) However, the department is not required to distribute until it has received the amount collected from an offset from the federal Department of the Treasury.

b. Federal nontax payment offsets shall be applied as provided in rule 441—95.3(252B).

98.84(3) *Notification to federal agency.* The department shall, by October 1 of each year or at times as permitted or specified by federal regulations, submit a notification(s) of liability for delinquent support to the federal Office of Child Support Enforcement.

98.84(4) *Preoffset notice and review.* Each obligor who does not have an existing support debt on record with the federal Office of Child Support Enforcement will be sent a preoffset notice in writing, using address information provided to the federal Office of Child Support Enforcement, stating the amount of the delinquent support certified for offset.

a. Individuals whose names were submitted for federal offset who wish to dispute the offset must notify the department in writing within the time period specified in the preoffset notice.

b. Upon receipt of a complaint from the individual disputing the submission for offset, the child support recovery unit shall conduct a review to determine if there is a mistake of fact and respond to the individual in writing within ten days.

98.84(5) *Recalculation of delinquency.* When the records of the department differ with those of the obligor for determining the amount of the delinquent support, the obligor may provide and the department will accept documents verifying modifications of the order, and records of payments made pursuant to state law, and will recalculate the delinquency.

98.84(6) *Notification of modification or elimination.* The department shall notify the federal Office of Child Support Enforcement, within time frames established by the federal Office of Child Support Enforcement, of any modification or elimination of an amount referred for offset.

98.84(7) *Failure to timely respond.* When an individual does not respond to the preoffset notice within the specified time even though the department later agrees a certification error was made, the individual must wait for corrective action as specified in subrule 98.84(8).

98.84(8) *Offset notice, appeal, and refund.* The federal Department of the Treasury will send notice that a federal income tax refund or federal nontax payment owed to the obligor has been intercepted. When the unit receives information from the federal Office of Child Support Enforcement regarding the offset, or when the individual whose name was submitted for federal offset notifies the department that

the individual has received an offset notice, the department shall issue to that individual Form 470-3684, Appeal Rights for Federal Offsets.

a. The individual whose name was submitted for federal offset shall have 15 days from the date of the notice to contest the offset by initiating an administrative appeal pursuant to 441—Chapter 7. Except as specifically provided in this rule, administrative appeals will be governed by 441—Chapter 7. The issue on appeal shall be limited to a mistake of fact. Any other issue may be determined only by a court of competent jurisdiction.

b. The department shall refund the incorrect portion of a federal income tax offset or federal nontax payment offset within 30 days following verification of the offset amount. Verification shall mean a listing from the federal Office of Child Support Enforcement containing the obligor's name and the amount of tax refund or nontax payment to which the obligor is entitled. The date the department receives the federal listing will be the beginning day of the 30-day period in which to make a refund.

c. The department shall refund the amount incorrectly set off to the obligor unless the obligor agrees in writing to apply the refund of the incorrect offset to any other support obligation due.

98.84(9) *Application of offsets.* Offsets of federal income tax refunds shall be applied to delinquent support only. The department shall first apply the amount collected from an offset to delinquent support assigned to the department under Iowa Code chapters 234 and 239B. The department shall then apply any amount remaining in equal proportions to delinquent support due individuals receiving nonassistance services.

This rule is intended to implement Iowa Code sections 252B.3, 252B.4, and 252B.5.

ITEM 22. Amend **441—Chapter 98, Division IX,** heading, as follows:

DIVISION ~~IX~~ X
EXTERNAL ENFORCEMENT

ITEM 23. Adopt the following **new 441—Chapter 98**, division heading:

DIVISION IX
CONSUMER REPORTING AGENCIES

ITEM 24. Adopt the following **new** rule 441—98.116(252B):

441—98.116(252B) Procedures for providing information to consumer reporting agencies. The child support recovery unit shall make information available to consumer reporting agencies regarding the amount of delinquent support owed by a responsible person only in cases where the delinquent support exceeds $1,000. However, before the unit will release the information to a consumer reporting agency, the agency must meet the requirements for a nationwide consumer reporting agency under Iowa Code section 252B.9(3)*"j."*

98.116(1) *Request of information.* Agencies may request the information from the Bureau of Collections, Department of Human Services, 400 SW Eighth Street, Suite H, Des Moines, Iowa 50309-4691. Requests for information about an individual shall include the individual's name and identifying information such as a social security number or birth date. Agencies may also request a listing of all obligors owing support in excess of $1,000.

98.116(2) *Notice of proposed release of information.* A notice of proposed release of information shall be sent to the last known address of the responsible person 30 calendar days prior to the release of the support arrearage information to a consumer reporting agency. This notice shall explain the information to be released and the methods available for contesting the accuracy of the information.

98.116(3) *Contesting proposed release of information.* The responsible person may, within 15 calendar days of the date of the notice of proposed release of information, request a conference with the child support recovery officer to contest the accuracy of the information to be given to the consumer reporting agency. In contested cases no referral shall be made to the consumer reporting agency until after the amount of overdue support has been confirmed to exceed $1,000.

This rule is intended to implement Iowa Code section 252B.9(3).

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 25. Reserve rules **441—98.123** to **441—98.130**.

ITEM 26. Adopt the following **new 441—Chapter 98**, division heading:

DIVISION XI
APPEALS

ITEM 27. Adopt the following **new** rule 441—98.131(17A):

441—98.131(17A) Right of appeal.

98.131(1) Under this chapter, an administrative appeal pursuant to 441—Chapter 7 shall be limited to the following issues:

a. A claim or offset is contested as provided in subrule 98.82(3), 98.83(3), or 98.84(8) by a person's alleging a mistake of fact.

b. A name has been certified for passport sanction as provided in Iowa Code section 252B.5.

98.131(2) A hearing shall not be granted under 441—Chapter 7 when the appellant has a complaint about child support recovery enforcement matters other than those described in this rule.

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

ITEM 28. Adopt the following **new** rule 441—98.132(17A):

441—98.132(17A) Appeal record. The record in an administrative appeal under this rule shall include, in addition to those materials specified in Iowa Code section 17A.12(6), the notice of appeal, all evidence received or considered and all other submissions, including the verbatim record of the hearing.

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

ITEM 29. Amend **441—Chapter 98**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section 96.3 and chapter 252D.

ITEM 30. Rescind and reserve rule **441—99.26(252F)**.

ITEM 31. Reserve rules **441—99.118** to **441—99.120**.

ITEM 32. Adopt the following **new 441—Chapter 99**, division heading:

DIVISION VII
APPEALS

ITEM 33. Adopt the following **new** rule 441—99.121(17A):

441—99.121(17A) Right of appeal. Department actions under this chapter are not subject to administrative appeal under 441—Chapter 7.

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

ITEM 34. Adopt the following **new** rule 441—100.8(17A):

441—100.8(17A) Right of appeal. Department actions under this chapter are not subject to administrative appeal under 441—Chapter 7.

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

ARC 5276C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to billing of physician assistant services and providing an opportunity for public comment

The Human Services Department hereby proposes to amend Chapter 77, "Conditions of Participation for Providers of Medical and Remedial Care," and Chapter 78, "Amount, Duration and Scope of Medical and Remedial Services," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

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

Purpose and Summary

The proposed rule making implements 2020 Iowa Acts, Senate File 2357, which allows physician assistants to bill independently for services provided. Under the current rules, a physician assistant bills for services provided through a supervising physician.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on December 8, 2020. Comments should be directed to:

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

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)"b," an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rule 441—77.49(249A) as follows:

441—77.49(249A) Physician assistants. All physician assistants licensed to practice in the state of Iowa are eligible for participation in the program. Physician assistants duly licensed to practice in other states are also eligible for participation. ~~Enrollment is for the purpose of providing professional services for Medicaid members including orders and referrals, as required under Public Law 111-148, Section 6401, otherwise known as the Patient Protection and Affordable Care Act (PPACA). Enrollment will not affect the provider's payment arrangements with facilities or supervising providers.~~

This rule is intended to implement Iowa Code section 249A.4.

ITEM 2. Amend paragraph **78.1(9)"d"** as follows:

d. Payment will be approved for tasks related to a resident receiving nursing facility care which are performed by a ~~physician's employee who is a~~ nurse practitioner, clinical nurse specialist, or physician assistant as specified in 441—paragraph 81.13(13)*"e."* On-site supervision of the physician is not required for these services.

ITEM 3. Amend paragraph **78.1(13)"a"** as follows:

a. Auxiliary personnel are nurses, ~~physician's assistants,~~ psychologists, social workers, audiologists, occupational therapists and physical therapists.

ITEM 4. Amend paragraph **78.1(13)"c"** as follows:

c. Direct personal supervision in the office setting means the physician must be present in the same office suite, not necessarily the same room, and be available to provide immediate assistance and direction.

Direct personal supervision outside the office setting, such as the member's home, hospital, emergency room, or nursing facility, means the physician must be present in the same room as the auxiliary person.

Advanced registered nurse practitioners certified under board of nursing rules 655—Chapter 7 performing services within their scope of practice are exempt from the direct personal supervision requirement for the purpose of reimbursement to the employing physicians. In these exempted circumstances, the employing physicians must still provide general supervision and be available to provide immediate needed assistance by telephone. Advanced registered nurse practitioners who prescribe drugs and medical devices are subject to the guidelines in effect for physicians as specified in rule 441—78.1(249A).

A physician assistant licensed under board of physician assistants' professional licensure rules in 645—~~Chapter 325~~ Chapters 326 to 329 is exempt from the direct personal supervision requirement ~~but the physician must still provide general supervision and be available to provide immediate needed assistance by telephone~~ except as expressly required by Iowa Code chapter 148C or required by rules in 645—Chapters 326 to 329. A physician shall be accessible at all times for consultation with a physician assistant unless the physician assistant is providing emergency medical services pursuant to 645—paragraph 327.1(2)*"n."* Physician assistants who prescribe drugs and medical devices are subject to the guidelines in effect for physicians as specified in rule 441—78.1(249A).

ARC 5277C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to HCBS elderly waiver budget cap and providing an opportunity for public comment

The Human Services Department hereby proposes to amend Chapter 83, "Medicaid Waiver Services," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in 2020 Iowa Acts, House File 2269.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2020 Iowa Acts, House File 2269.

Purpose and Summary

During the 2020 Legislative Session, House File 2269 directed the Department to eliminate the monthly budget maximum or cap for individuals eligible for the Medicaid home- and community-based services (HCBS) elderly waiver. The proposed amendments remove the total limit on the monthly cost of care for the elderly waiver.

Fiscal Impact

The fiscal impact of increasing or eliminating a waiver monthly cap must be calculated; however, because the majority of the HCBS elderly waiver members' assessed needs are currently met within the established funding limits, the anticipated increase is cost-neutral or minimal. The Department estimated the fiscal impact of removing the monthly waiver funding cap by looking at approved exceptions to policy. Even though most elderly waiver service plans have a monthly maximum funding cap, the established exception-to-policy process allows for funding in excess of the waiver cap for medically necessary services to meet a member's assessed needs. During calendar year 2019, the Iowa Medicaid Enterprise received 14 exception-to-policy requests to exceed the elderly waiver monthly cap; all of these requests were approved. A nominal fiscal impact of less than $250,000 is expected.

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 December 8, 2020. Comments should be directed to:

HUMAN SERVICES DEPARTMENT[441](cont'd)

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

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend subparagraph **83.22(2)"c"(2)** as follows:

(2) Services must be the least costly available to meet the service needs of the member. ~~The total monthly cost of the elderly waiver services exclusive of case management services shall not exceed the established monthly cost of the level of care. Aggregate monthly costs, excluding the cost of case management and home and vehicle modifications, are limited as follows:~~

~~Skilled level of care~~	~~Nursing level of care~~
~~$2,792.65~~	~~$1,365.78~~

ITEM 2. Amend paragraph **83.28(1)"c"** as follows:

c. Service needs ~~exceed the aggregate monthly costs established in 83.22(2)*"b,"* or~~ are not met by services provided.

ITEM 3. Rescind paragraph **83.28(2)"b."**

ITEM 4. Reletter paragraphs **83.28(2)"c"** to **"e"** as **83.28(2)"b"** to **"d."**

ARC 5275C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

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

The Human Services Department hereby proposes to amend Chapter 187, "Aftercare Services Program," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 234.46.

HUMAN SERVICES DEPARTMENT[441](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 234.46.

Purpose and Summary

The Aftercare Services Program, including the Preparation for Adult Living (PAL) financial component, helps youth who were formerly in foster care, the Iowa state training school, or a court-ordered Iowa juvenile detention center enter adulthood with ongoing services and supports. Contracted support provides case management, life skills training, and financial supports for housing, transportation, clothing, food and other costs related to the participants' self-sufficiency plan. This program serves youth up to the age of 23.

Under 2020 Iowa Acts, House File 2220, youth who age out of relative foster care may receive the same financial support under the PAL program as youth who leave from State-paid care. This proposed rule making implements this change. This change is consistent with the spirit of the federal Family First Prevention Services Act and the Department's efforts to help families take care of their own families.

Additionally, to align the term "postservices" with current practice, this proposed rule making changes the term to "extended services."

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the 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 December 8, 2020. Comments should be directed to:

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

Public Hearing

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or

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

The following rule-making actions are proposed:

ITEM 1. Amend paragraph **187.2(3)"c"** as follows:

c. ~~*Postservices*~~ *Extended services.* The youth must meet eligibility requirements for ~~postservices~~ extended services as described below:

(1) The youth resides in Iowa; and

(2) The youth is 21 or 22 years of age; and

~~(2)~~ (3) The youth was served by the aftercare services program prior to the age of 21; and

~~(3)~~ (4) The youth has access to funding for ~~postservices~~ extended services provided in contract that has not been fully expended for the contract year.

ITEM 2. Amend subrule 187.3(3) as follows:

187.3(3) ~~*Postservices*~~ *Extended services.* ~~Posttransition service~~ Extended services may be provided to youth, as described in paragraph 187.2(3)*"c,"* and may include, but ~~is~~ are not limited to, life skills training, periodic check-in, referrals to needed services, and limited payments to youth. Funds, limited to an annual per-participant amount identified in the contract, may be provided to a former aftercare services participant. Prior to receiving available funds, the youth is required to meet with the advocate and discuss the reason the youth is accessing funds and prior efforts to meet the need. The youth may also be asked to provide documentation of income.

ITEM 3. Amend paragraph **187.3(5)"a"** as follows:

a. To receive a vendor payment, the youth must demonstrate that there are no other means to meet the needs that would be covered by the vendor payment. The youth shall contribute toward the cost of meeting the identified need, to the extent the youth is able. A youth receiving a preparation for adult living (PAL) stipend, preservices or ~~postservices~~ extended services is not eligible for a vendor payment.

ITEM 4. Amend paragraph **187.3(6)"a"** as follows:

a. To be eligible for the PAL stipend, the youth must:

(1) Meet eligibility requirements in Iowa Code section 234.46 and rule 441—187.2(234); and

(2) Have been placed out of home in ~~paid~~ foster care, the Iowa state training school, or a court-ordered Iowa juvenile detention center as identified by Iowa Code chapter 232 on the youth's eighteenth birthday and have exited after having been in any combination of the same services in at least 6 of the 12 months before leaving placement; and

(3) Be ineligible for voluntary foster care placement, due to one of the following:

1. The youth has a high school diploma or equivalent, or

2. The youth has reached 20 years of age, or

3. The youth became eligible for aftercare services due to exiting the Iowa state training school or an Iowa detention center~~.~~, or

4. The youth became eligible for aftercare services due to exiting court-ordered care in accordance with Iowa Code chapter 232 by a relative or another person with a significant relationship with the youth.

ITEM 5. Amend subrule 187.3(7) as follows:

187.3(7) ~~*Postservices*~~ *Extended services allowance.* Youth 21 or 22 years of age who previously received aftercare services may receive ~~postservices~~ extended services funds if they meet all of the following criteria:

a. The youth is participating in ~~postservices~~ extended services as described in subrule 187.3(3).

b. A budget discussion has been completed timely by the youth with a self-sufficiency advocate.

c. The need has been identified in the individual self-sufficiency plan.

d. The ~~postservices~~ extended services funds approved for the youth have not exceeded $300 for a three-month period calculated from the date of initiation of ~~postservices~~ extended services.

ARC 5282C

NURSING BOARD[655]

Notice of Intended Action

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

The Board of Nursing hereby proposes to amend Chapter 15, "Waiver and Variance Rules," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 17A.9A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 17A.9A.

Purpose and Summary

During the 2020 Legislative Session, the Legislature passed 2020 Iowa Acts, House File 2389, which makes various amendments to Iowa Code chapter 17A. In section 10 of House File 2389, Iowa Code section 17A.9A is amended to remove references to "variances," and the Iowa Code section now only uses the term "waiver" throughout. This proposed rule making updates the Board's waiver rules to similarly remove references to "variances" and only use the term "waiver."

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 655—Chapter 15.

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 December 8, 2020. Comments should be directed to:

Kathy Weinberg
Iowa Board of Nursing
400 S.W. Eighth Street, Suite B
Des Moines, Iowa 50309
Email: kathy.weinberg@iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)"b," an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend **655—Chapter 15**, title, as follows:

WAIVER ~~AND VARIANCE~~ RULES

ITEM 2. Amend rule 655—15.1(147,ExecOrd8,78GA,ch1176) as follows:

655—15.1(147,ExecOrd8,78GA,ch1176) Definition. For purposes of this chapter, a "waiver ~~or variance~~" means action by a division board~~,~~ which suspends in whole or in part the requirements or provisions of a rule as applied to an identified person on the basis of the particular circumstances of that person. ~~For simplicity, the term "waiver" shall include both a waiver and a variance.~~

ITEM 3. Amend rule 655—15.4(147,ExecOrd8,78GA,ch1176), introductory paragraph, as follows:

655—15.4(147,ExecOrd8,78GA,ch1176) Criteria for waiver ~~or variance~~. In response to a petition completed pursuant to rule 655—15.6(147,ExecOrd8,78GA,ch1176), a division board may in its sole discretion issue an order waiving in whole or in part the requirements of a rule if the board finds, based on clear and convincing evidence, all of the following:

ARC 5278C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rule making related to continuing education, waivers, and petitions for rule making and providing an opportunity for public comment

The Plumbing and Mechanical Systems Board hereby proposes to amend Chapter 30, "Continuing Education for Plumbing and Mechanical Systems Professionals," Chapter 31, "Plumbing and Mechanical Systems Board—Waivers or Variances from Administrative Rules," and Chapter 36, "Plumbing and Mechanical Systems Board—Petitions for Rule Making," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 105.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 105 and 272C and chapter 17A as amended by 2020 Iowa Acts, House File 2389.

Purpose and Summary

These proposed amendments largely make changes across several chapters of the Iowa Administrative Code that are necessary to comply with and implement 2020 Iowa Acts, House File 2389. House File 2389 removes the term "variance" in relation to the phrase "waiver or variance." House File 2389 also

clarifies how and when to notify the Administrative Code Editor and Administrative Rules Coordinator of waivers.

The amendment in Item 1 clarifies that a continuing education course cannot be repeated for credit in the same renewal period.

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 the Board's waiver provisions contained in 641—Chapter 31.

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 December 8, 2020. Comments should be directed to:

Kane Young
Executive Officer
Plumbing and Mechanical Systems Board
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: kane.young@idph.iowa.gov

Public Hearing

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

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 30.2(4) as follows:

30.2(4) It is ~~the~~ each licensee's responsibility ~~of each licensee~~ to maintain a record of all continuing education courses attended and retain proof of compliance with the continuing education requirements. Licensees may attend a continuing education course more than once during a continuing education compliance period. However, licensees who attend a course more than once may not count the approved hours for that course toward the applicable continuing education requirement more than once during the continuing education compliance period.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 2. Amend **641—Chapter 31**, title, as follows:

PLUMBING AND MECHANICAL SYSTEMS BOARD—WAIVERS ~~OR VARIANCES~~ FROM ADMINISTRATIVE RULES

ITEM 3. Amend rule 641—31.1(17A,105,272C) as follows:

641—31.1(17A,105,272C) Definitions. For purposes of this chapter:

"Board" means the Iowa plumbing and mechanical systems board.

"Waiver ~~or variance~~" means action by the board which suspends in whole or in part the requirements or provisions of a rule as applied to an identified person on the basis of the particular circumstances of that person. ~~For simplicity, the term "waiver" shall include both a waiver and a variance.~~

ITEM 4. Amend rule **641—31.4(17A,105,272C)**, catchwords, as follows:

641—31.4(17A,105,272C) Criteria for waiver ~~or variance~~.

ITEM 5. Amend rule 641—31.5(17A,105,272C) as follows:

641—31.5(17A,105,272C) Filing of petition. A petition for a waiver must be submitted in writing to the board as follows:

31.5(1) *License application.* If the petition relates to a license application, the petition shall be made in accordance with the filing requirements for the license in question and submitted to the ~~board administrator~~ board's executive officer.

31.5(2) *Contested cases.* If the petition relates to a pending contested case, the petition shall be filed in the contested case proceeding, using the caption of the contested case, and submitted to the ~~board administrator~~ board's executive officer.

31.5(3) *Other.* If the petition does not relate to a license application or a pending contested case, the petition may be submitted to the board's ~~administrator~~ executive officer.

ITEM 6. Amend rule 641—31.12(17A,105,272C) as follows:

641—31.12(17A,105,272C) ~~Summary reports~~ Reports to administrative code editor and administrative rules coordinator. ~~Semiannually~~ Within 60 days after granting or denying a petition for waiver, the board shall ~~prepare a summary report identifying the~~ submit the information described in this rule, which may be encompassed by the board's written decision on the petition for waiver, to the administrative code editor and the administrative rules coordinator through the Internet site established under Iowa Code section 17A.9A(4):

31.12(1) The rule or rules for which a waiver ~~has been~~ was sought;

31.12(2) Whether the waiver was granted or denied~~, the~~;

31.12(3) The number of times a waiver was granted or denied for each rule~~, a~~;

31.12(4) A citation to the statutory provisions implemented by ~~these~~ the rules~~, and a~~ for which waiver was sought;

31.12(5) A general summary of the reasons justifying the board's ~~actions~~ action on the waiver ~~requests.~~ request; and

31.12(6) If both applicable and practicable, ~~the report shall detail~~ information detailing the extent to which the granting of a waiver has established a precedent for additional waivers and affected the general applicability of the rule itself. ~~Copies of this report shall be available for public inspection and shall be provided semiannually to the administrative rules coordinator and the administrative rules review committee.~~

ITEM 7. Amend rule 641—36.4(17A) as follows:

641—36.4(17A) Board consideration.

36.4(1) *Information considered.* ~~Within 14 days after the filing of a petition, the board must submit a copy of the petition and any accompanying brief to the administrative rules coordinator and to the administrative rules review committee.~~ Upon request by the petitioner in the petition, the board must

schedule a brief and informal meeting between the petitioner and the board, a member of the board, or a member of the staff of the board, to discuss the petition. The board may request the petitioner to submit additional information or argument concerning the petition. Any person may submit comments to the board on the substance of the petition. The board may also solicit comments from any person on the substance of the petition. ~~Also, comments on the substance of the petition may be submitted to the board by any person.~~

36.4(2) *Time for decision.* Within 60 days after the filing of the petition, or within any longer period agreed to by the petitioner, the board must, in writing, deny the petition, and notify petitioner of its action and the specific grounds for the denial, or grant the petition and notify petitioner that it has instituted rule-making proceedings on the subject of the petition. Petitioner shall be deemed notified of the denial or grant of the petition on the date when the board mails or delivers the required notification to petitioner.

36.4(3) *Denial on the basis of form is without prejudice.* Denial of a petition because it does not substantially conform to the required form does not preclude the filing of a new petition on the same subject that seeks to eliminate the grounds for the board's rejection of the petition.

36.4(4) *Notification to administrative rules coordinator and administrative rules review committee.* Within 14 days after the filing of a petition, the board must submit a copy of the petition and any accompanying brief to the administrative rules coordinator and to the administrative rules review committee. Within 14 days after granting or denying a petition, the board must notify the administrative rules coordinator and the administrative rules review committee of the disposition of the petition.

ARC 5270C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rule making related to school dental screenings and providing an opportunity for public comment

The Public Health Department hereby proposes to amend Chapter 51, "Dental Screening," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code chapter 135.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 135.17.

Purpose and Summary

Chapter 51 provides the rules for the school dental screening requirement, which aims to improve the oral health of Iowa's children. Based on feedback from a recent quality improvement exercise (as a result of recommendations provided by the legislatively mandated Student Health Working Group), the Bureau of Oral and Health Delivery Systems (OHDS) has developed a template for the new certificate of dental screening. The new certificate eliminates some of the currently collected demographic information, which will reduce the administrative burden on parents, providers, and school staff. The proposed amendments implement this change.

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.

PUBLIC HEALTH DEPARTMENT[641](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 the Department's waiver and variance procedures contained in 641—Chapter 178.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on December 8, 2020. Comments should be directed to:

Stephanie Chickering
Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: stephanie.chickering@idph.iowa.gov

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Amend rule 641—51.9(135) as follows:

641—51.9(135) Dental screening documentation.

51.9(1) *Student information.* A person authorized to perform a dental screening required by this chapter shall record the following student information or ensure that such information is recorded on the certificate of dental screening provided or approved in writing by the department of public health in cooperation with the department of education:

~~1.~~ *a.* Name (first and last); and

~~2.~~ *b.* Birth date~~;~~.

~~3. Parent or guardian name;~~

~~4. Telephone numbers (home or mobile);~~

~~5. Address (street, city, and county);~~

~~6. School;~~

~~7. Grade level; and~~

~~8. Gender.~~

51.9(2) *Screening information.* A person authorized to perform a dental screening required by this chapter shall record the following screening information on the certificate of dental screening provided or approved in writing by the department of public health in cooperation with the department of education:

~~1.~~ *a.* Date of dental screening;

PUBLIC HEALTH DEPARTMENT[641](cont'd)

~~2.~~ *b.* Treatment needs (no obvious problems, requires dental care, requires urgent dental care);
~~3.~~ *c.* Provider type;
~~4.~~ *d.* Provider name~~, business address,~~ and telephone number; and
~~5.~~ *e.* Provider or recorder signature and credentials.

ARC 5271C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

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

The Public Health Department hereby proposes to amend Chapter 69, "Renovation, Remodeling, and Repainting—Lead Hazard Notification Process," Chapter 131, "Emergency Medical Services—Providers—Initial Certification—Renewal and Reactivation—Authority—Complaints and Investigations," Chapter 132, "Emergency Medical Services—Service Program Authorization," Chapter 134, "Trauma Care Facility Categorization and Verification," Chapter 135, "Trauma Triage and Transfer Protocols," Chapter 136, "Trauma Registry," Chapter 139, "Emergency Medical Services—Training Programs—Students—Complaints and Investigations," Chapter 144, "Emergency Medical Services—Air Medical Service Program Authorization," Chapter 150, "Iowa Regionalized System of Perinatal Health Care," and Chapter 173, "Contested Cases," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code chapters 17A, 135 and 147A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 135 and 147A and chapter 17A as amended by 2020 Iowa Acts, House File 2389.

Purpose and Summary

The proposed amendments are required pursuant to 2020 Iowa Acts, House File 2389. The amendments eliminate the term "variance" and replace it with the term "waiver" where appropriate in the Department's administrative rules.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the Department's waiver provisions contained in 641—Chapter 178.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on December 8, 2020. Comments should be directed to:

PUBLIC HEALTH DEPARTMENT[641](cont'd)

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

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rule 641—69.15(135) as follows:

641—69.15(135) Waivers. Rules in this chapter are not subject to waiver ~~or variance~~ pursuant to 641—Chapter 178 or any other provision of law.

ITEM 2. Amend paragraph **131.5(2)"d"** as follows:

d. The department may grant a ~~variance~~ waiver for changes to the scope of practice that have not yet been adopted by reference in these rules pursuant to 641—Chapter 178.

ITEM 3. Amend subrule 131.7(1) as follows:

131.7(1) This rule is not subject to waiver ~~or variance~~ pursuant to 641—Chapter 178 or any other provision of law.

ITEM 4. Amend subrule 131.10(1) as follows:

131.10(1) This rule is not subject to waiver ~~or variance~~ pursuant to 641—Chapter 178 or any other provision of law.

ITEM 5. Amend rule 641—132.4(147A) as follows:

641—132.4(147A) ~~Variances~~ Waivers. If during a period of authorization, a service program is unable to maintain compliance with Iowa Code chapter 147A and these rules, the department may grant a ~~variance~~ waiver.

132.4(1) ~~Variances to~~ Waivers of these rules may be granted by the department to a currently authorized service program.

132.4(2) Requests for ~~variances~~ waivers shall apply only to the service program requesting the ~~variance~~ waiver and shall apply only to those requirements and standards for which the department is responsible.

132.4(3) A service program shall apply for a ~~variance~~ waiver in accordance with 641—Chapter 178.

ITEM 6. Amend subrule 132.5(16) as follows:

132.5(16) This rule is not subject to waiver ~~or variance~~ pursuant to 641—Chapter 178 or any other provision of law.

ITEM 7. Amend paragraph **134.2(7)"m"** as follows:

m. The director, pursuant to 641—Chapter 178, may grant a ~~variance~~ waiver from the requirements of rules adopted under this chapter for any trauma care facility.

ITEM 8. Amend paragraph **135.2(1)"d"** as follows:

d. The director, pursuant to rule, may grant a ~~variance~~ waiver from the requirements of rules adopted under this chapter for any hospital, emergency care facility, or service program provided that the ~~variance~~ waiver is related to undue hardships in complying with this chapter or the rules adopted pursuant to this chapter.

ITEM 9. Amend paragraph **136.2(6)"c"** as follows:

c. The director, pursuant to 641—Chapter 178, may grant a ~~variance~~ waiver from the requirements of rules adopted under this chapter for a trauma care facility that meets the requirements of this chapter.

ITEM 10. Amend rule **641—139.4(147A)**, catchwords, as follows:

641—139.4(147A) Training program standards, student requirements and ~~variances~~ waivers.

ITEM 11. Amend rule 641—139.7(147A) as follows:

641—139.7(147A) Temporary ~~variances~~ waivers. If during a period of authorization there is some occurrence that temporarily causes a training program to be in noncompliance with these rules, the department may grant a temporary ~~variance~~ waiver.

139.7(1) ~~Variances to~~ Waivers of these rules may be granted by the department to a currently authorized training program.

139.7(2) Requests for ~~variances~~ waivers shall apply only to the training program requesting the ~~variance~~ waiver and shall apply only to those requirements and standards for which the department is responsible.

139.7(3) A training program shall apply for a ~~variance~~ waiver in accordance with 641—Chapter 178.

ITEM 12. Amend subrule 139.9(1) as follows:

139.9(1) This rule is not subject to waiver ~~or variance~~ pursuant to 641—Chapter 178 or any other provision of law.

ITEM 13. Amend paragraph **144.3(4)"b"** as follows:

b. The service shall meet applicable requirements of these rules but may apply for a ~~variance~~ waiver using the criteria outlined in rule 641—144.7(147A).

ITEM 14. Amend subrule 144.4(10) as follows:

144.4(10) Implementation. The director may grant ~~exceptions and variances~~ waivers from the requirements of this chapter for any air medical service. ~~Exceptions or variations~~ Waivers shall be reasonably related to undue hardships which existing services experience in complying with this chapter. Services requesting ~~exceptions and variances~~ waivers shall be subject to other applicable rules adopted pursuant to Iowa Code chapter 147A. Nothing in this chapter shall be construed to require any service to provide a level of care beyond minimum basic care standards.

ITEM 15. Amend subrule 144.6(17) as follows:

144.6(17) This rule is not subject to waiver ~~or variance~~ pursuant to 641—Chapter 178 or any other provision of law.

ITEM 16. Amend rule 641—144.7(147A) as follows:

641—144.7(147A) Temporary ~~variances~~ waivers.

144.7(1) If during a period of authorization there is some occurrence that temporarily causes a service program to be in noncompliance with these rules, the department may grant a temporary ~~variance~~ waiver. Temporary ~~variances~~ waivers from these rules (not to exceed six months in length per any approved request) may be granted by the department to a currently authorized service program.

Requests for temporary ~~variances~~ waivers shall apply only to the service program requesting the ~~variance~~ temporary waiver and shall apply only to those requirements and standards for which the department is responsible.

144.7(2) To request a ~~variance~~ waiver, the service program shall:

a. Notify the department verbally (as soon as possible) of the need to request a temporary ~~variance~~ waiver. Submit to the department, within ten days after having given verbal notification to the department, a written explanation for the temporary ~~variance~~ waiver request. The address and telephone number are Iowa Department of Public Health, Bureau of Emergency Medical Services, Lucas State Office Building, Des Moines, Iowa 50319-0075; (515)725-0326.

b. Cite the rule from which the ~~variance~~ temporary waiver is requested.

c. State why compliance with the rule cannot be maintained.

d. Explain the alternative arrangements that have been or will be made regarding the ~~variance~~ temporary waiver request.

e. Estimate the period of time for which the ~~variance~~ temporary waiver will be needed.

144.7(3) Upon notification of a request for ~~variance~~ a temporary waiver, the department shall consider, but shall not be limited to the following:

a. Examining the rule from which the temporary ~~variance~~ waiver is requested to determine if the request is appropriate and reasonable.

b. Evaluating the alternative arrangements that have been or will be made regarding the ~~variance~~ temporary waiver request.

c. Examining the effect of the requested ~~variance~~ temporary waiver upon the level of care provided to the general populace served.

d. Requesting additional information if necessary.

144.7(4) Preliminary approval or denial shall be provided verbally within 24 hours. Final approval or denial shall be issued in writing within ten days after department receipt of the written explanation for the temporary ~~variance~~ waiver request and shall include the reason for approval or denial. If approval is granted, the effective date and the duration of the temporary ~~variance~~ waiver shall be clearly stated.

144.7(5) Any request for appeal concerning the denial of a request for temporary ~~variance~~ waiver shall be in accordance with the procedures outlined in rule 641—144.6(147A).

ITEM 17. Amend subrule 150.6(4) as follows:

150.6(4) *Level designation maintenance, ~~variance~~ waiver and confidential records.*

a. A hospital which is unable to maintain its designated level of care shall notify the department, in writing, within 60 days of the change in capacity to meet the designated level of care.

b. The director may grant a ~~variance~~ waiver from the requirements of rules adopted under this chapter for any hospital participating in the regionalized system of perinatal health care.

c. Proceedings, records, and reports developed pursuant to this chapter are confidential pursuant to Iowa Code section 135.11(27) and constitute peer review records under Iowa Code section 147.135, and are not subject to discovery, subpoena, or other means of legal compulsion for their release to a person other than the affected hospital, and are not admissible in evidence in a judicial or administrative proceeding other than a proceeding involving verification of the participating hospital.

ITEM 18. Amend subrule 173.16(1) as follows:

173.16(1) Any party may request a prehearing conference. A written request for prehearing conference or an order for prehearing conference on the presiding officer's own motion shall be filed not less than seven days prior to the hearing date. A prehearing conference shall be scheduled not less than three business days prior to the hearing date.

Written notice of the prehearing conference shall be given by the presiding officer to all parties. For good cause the presiding officer may permit ~~variances~~ waivers from this rule.

ARC 5280C

PUBLIC SAFETY DEPARTMENT[661]

Notice of Intended Action

Proposing rule making related to commercial explosive contractors and blasters licensing and providing an opportunity for public comment

The Department of Public Safety hereby proposes to amend Chapter 235, "Commercial Explosive Licensing," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 101A.5.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 101A.

Purpose and Summary

The purposes of amending Chapter 235 are to add definitions, update the application process, add continuing education requirements, and comply with 2020 Iowa Acts, House File 2627, which makes changes to Iowa Code chapter 272C.

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

Pursuant to the provisions of rule 661—10.222(17A), the Department does not have authority to waive requirements established by statute. Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the provisions of rule 661—10.222(17A).

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on December 8, 2020. Comments should be directed to:

Sarah Jennings
Department of Public Safety
Oran Pape State Office Building
215 East 7th Street
Des Moines, Iowa 50319
Phone: 515.725.6185
Email: jennings@dps.state.ia.us

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)"b," an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend **661—Chapter 235**, title, as follows:

LICENSING FOR COMMERCIAL EXPLOSIVE ~~LICENSING~~ CONTRACTORS AND BLASTERS

ITEM 2. Amend rule 661—235.1(101A) as follows:

661—235.1(101A) Licensing program established. A commercial explosive licensing program is hereby established in the state fire marshal division. The program shall issue licenses to commercial explosive firms and to individual blasters as provided in this chapter.

235.1(1) The commercial explosive licensing program is located at the following address:

~~Commercial Explosive Licensing Program~~
State Fire Marshal Division
Iowa Department of Public Safety
Attn: SFM Licensing Administration
215 East 7th Street
Des Moines, Iowa 50319
~~The program may be contacted by mail or in person at this address.~~

235.1(2) The program may be contacted by ~~telephone at (515)725-6145, by fax at (515)725-6172, or by~~ electronic mail at ~~fminfo@dps.state.ia.us~~ sfmlicense@dps.state.ia.us or by the United States Postal Service.

ITEM 3. Renumber existing rules **661—235.2(101A)** to **661—235.5(101A)** as **661—235.3(101A)** to **661—235.6(101A)**.

ITEM 4. Adopt the following **new** rule 661—235.2(101A):

661—235.2(101A) Definitions. The following definitions apply to rules 661—235.1(101A) to 661—235.12(101A):

"Actual possession" means when a person is in immediate possession or control of explosive materials (e.g., an employee who physically handles explosive materials as part of the production process; or an employee, such as a blaster, who actually uses explosive materials).

"Applicant" means an individual employed by a commercial explosive contractor or person associated with a commercial explosive contractor who meets the definition of "employee possessor" or "responsible person" as defined in this chapter.

"Blasting agent" means any material or mixture consisting of a fuel and oxidizer, intended for blasting but not otherwise classified as an explosive, in which none of the finished products as mixed and packaged for use or shipment can be detonated by means of a number eight test blasting cap when unconfined.

"Commercial explosive blaster" or *"blaster"* means any individual who conducts blasting or is in charge of or responsible for loading or detonation of any explosive material.

"Commercial explosive contractor" or *"contractor"* means any business whose employees are engaged in the manufacture, importation, distribution, sale, or commercial use of explosives in the course of their employment.

"Commercial license" or *"license"* means a license issued by the state fire marshal pursuant to this chapter.

"Constructive possession" means when an employee lacks direct physical control over explosive materials but exercises dominion and control over the explosive materials, either directly or indirectly through others (e.g., an employee at a construction site who keeps keys for magazines in which explosive materials are stored, or who directs the use of explosive materials by other employees; or an employee transporting explosive materials from a licensee to a purchaser).

"Employee possessor" means an individual who has actual or constructive possession of explosive materials during the course of the individual's employment.

"Explosive" means any chemical compound, mixture or device, the primary or common purpose of which is to function by explosion with substantially instantaneous release of gas and heat, unless such compound, mixture, or device is otherwise specifically classified by the United States Department of Transportation. The term "explosive" includes all materials which are classified as a class 1, division 1.1, 1.2, 1.3, or 1.4 explosive by the United States Department of Transportation, under 49 CFR Section 173.50, and all materials classified as explosive materials under 18 U.S.C. §841, and includes but is not limited to dynamite, black powder, pellet powders, initiating explosives, blasting caps, electric blasting caps, safety fuse, fuse lighters, fuse igniters, squibs, cordeau detonative fuse, instantaneous fuse, igniter cord, igniters, smokeless propellant, cartridges for propellant-actuated power devices, cartridges for industrial guns, and overpressure devices but does not include "consumer fireworks," "display fireworks," or "novelties" as those terms are defined in Iowa Code section 727.2 or ammunition or small arms primers manufactured for use in shotguns, rifles, and pistols. Commercial explosives are those explosives which are intended to be used in commercial or industrial operations.

"Explosive materials" means explosives or blasting agents.

"Import" or *"importation"* means transfer into the state of Iowa.

"Licensee" means a person holding a commercial license issued by the state fire marshal pursuant to this chapter.

"Magazine" means any building or structure, other than an explosives manufacturing building, approved for the storage of explosive materials.

"Offense directly relates" refers to either of the following:

1. The actions taken in furtherance of an offense are actions customarily performed within the scope of practice of a licensed profession.
2. The circumstances under which an offense was committed are circumstances customary to a licensed profession.

"Overpressure device" means any device constructed of a container or improvised container which is filled with a mixture of chemicals or sublimating materials or gases that generate an expanding gas, which is designed or constructed to cause the container to break, fracture, or rupture in a violent manner capable of causing death, serious injury, or property damage.

"Person" means any individual, corporation, partnership, or association.

"Responsible person" means an individual who has the power to direct the management and policies of the commercial explosive contractor pertaining to explosive materials. For example, responsible persons generally include sole proprietors and explosives facility site managers. In the case of a corporation, association, or similar organization, responsible persons generally include corporate directors and officers, as well as stockholders who have the power to direct management and policies.

ITEM 5. Amend renumbered rules 661—235.3(101A) to 661—235.6(101A) as follows:

661—235.3(101A) Licenses required. Except as specifically exempted by another provision of state or federal law, any business whose employees are engaged in the manufacture, importation, distribution, sale, or commercial use of explosives in the course of their employment shall be required to hold a current commercial explosive ~~business~~ contractor license issued pursuant to this chapter. Any individual, except as specifically exempted by another provision of law, who conducts blasting or is in charge of or responsible for loading or detonation of any explosive material shall be required to hold a current ~~individual~~ commercial explosive blaster license issued pursuant to this chapter. ~~An individual~~

A commercial explosive blaster license shall not be required to authorize a person solely to transport explosives from one location to another, to assist a licensed blaster, to train under a licensed blaster, or to engage in the manufacture of explosives.

NOTE: Iowa Code section 101A.1 excludes "fireworks" from the definition of "explosive." Consequently, working with fireworks does not require a blaster license, nor does the manufacture, importation, distribution, sale, or commercial use of fireworks require a commercial explosive license.

661—235.4(101A,272C) License application process.

235.4(1) *Application for commercial explosive contractor or commercial explosive blaster license.* Anyone wishing to obtain an application for a commercial explosive ~~business~~ contractor license or ~~an individual~~ a commercial explosive blaster license may obtain a copy of the required application by contacting the ~~commercial explosive licensing program as specified in rule 661—235.1(101A)~~ state fire marshal or visiting the state fire marshal's website. The application shall be filed no later than 30 days prior to the date of beginning work in this state or on which an existing license expires.

NOTE: The website for the commercial explosive licensing program is: dps.iowa.gov/divisions/state-fire-marshal/licensing/commercial-explosives.

235.4(2) *Submission of application and required information.* A completed application for a license shall be submitted to the commercial explosive licensing program at the address specified in subrule 235.1(1) or on the state fire marshal's website. All information requested on the application shall be provided prior to the processing of the application. An application shall not be considered complete unless all required information is submitted, including required attachments and fees, and shall not be processed until it is complete.

235.4(3) *License fee.* Each license application shall be accompanied by a $60 fee for each license for which application is being made, paid electronically or by check or money order made payable to the Iowa ~~Department of Public Safety~~ State Fire Marshal Division. Draft, check, or money order shall be addressed to the state fire marshal as established in subrule 235.1(1). If the application is being submitted later than January 31 of a given year, then the fee for each license shall be ~~$5 per month~~ prorated for each month remaining in the ~~calendar year~~ period of issue, including the month in which the application is submitted.

The state fire marshal shall waive any fee charged to an applicant for a license if the applicant's household income does not exceed 200 percent of the federal poverty income guidelines and the applicant is applying for the license for the first time in this state.

235.4(4) *License duration.* ~~Each license issued~~ Licensure shall normally be for three years and shall expire on December 31 of the third year ~~in which~~ after it is issued, except that a license issued in December of any year shall expire on December 31 ~~of the following year~~ after two years have passed from the date on which the license was issued.

235.4(5) *Criminal history.* An applicant shall be subject to a national criminal history check through the Federal Bureau of Investigation. Each applicant for a commercial explosive contractor or blaster shall submit fingerprints and the applicable fee at the time of application for a new or renewal license. The results of a criminal history check conducted pursuant to this subrule shall be considered a confidential record under Iowa Code chapter 22.

235.4(6) *Attachments.* Required attachments to the application for license include, but are not limited to, the following:

a. Documentation that the applicant has met the applicable licensure requirements.

b. Documentation of qualifying licensure in another issuing jurisdiction by providing the following:

(1) Proof of residency in this state.

(2) Proof all conditions are met as established in rule 661—235.7(272C).

1. Copy of a license from other issuing jurisdiction.

2. Evidence the applicant met issuing jurisdiction's educational requirements, and if applicable, work experience.

3. Evidence the applicant passed the issuing jurisdiction's required examination, if applicable.

4. Evidence the applicant has not had a license revoked or voluntarily surrendered, had discipline imposed, or been under investigation by another issuing jurisdiction.

5. Evidence the applicant does not have a complaint, allegation, or investigation pending before any regulatory entity related to unprofessional conduct.

235.4(7) *Veterans, military service members, and certain survivor beneficiaries.* Any individual while serving honorably on federal active duty, state active duty, or national guard duty, as defined in Iowa Code section 29A.1, applying for licensure as a commercial explosive contractor or blaster shall apply for licensure following 661—Chapter 278.

661—235.5(101A) Issuance of commercial explosive ~~business~~ contractor license. A commercial explosive ~~business~~ contractor license shall be issued only if all of the following conditions have been satisfied:

235.5(1) All items required on the application have been completed, and any items the state fire marshal deems necessary to verify have been verified and found to be true.

~~**235.5(2)** For purposes of this rule, "responsible person" means an individual who has the power to direct the management and policies of the applicant pertaining to explosive materials. Generally, "responsible person" includes partners, sole proprietors, site managers, corporate officers, directors and majority shareholders.~~

~~**235.5(3)**~~ **235.5(2)** No ~~responsible person or manager of the business~~ applicant for which commercial explosive licensure is sought nor any person who will have, at any time, possession of explosives in the course of employment with the prospective ~~business~~ contractor licensee may:

a. ~~Has~~ Have been convicted of ~~a felony or~~ any offense involving explosives or firearms;

b. ~~Has~~ Have been previously disqualified from being licensed to handle explosives in this or any other state. The state fire marshal may grant a license to a person previously disqualified if the state fire marshal is satisfied that the condition or conditions that led to the disqualification have been corrected;

c. ~~Is~~ Be an unlawful user of or is addicted to controlled substances;

d. ~~Has~~ Have been adjudged mentally incompetent at any time by any court, been committed by any court to any mental institution, received inpatient treatment for any mental illness in the past three years, or received treatment by a health care professional for a serious mental illness or disorder which impairs a person's capacity to function normally and safely, both toward themselves and others.

~~**235.5(4)**~~ **235.5(3)** The business has at least one responsible person or employee licensed as ~~an individual~~ a commercial explosive blaster.

661—235.6(101A) Issuance of ~~individual~~ a commercial explosive blaster license. ~~An individual~~ A commercial explosive blaster license shall be issued only if all of the following conditions have been satisfied:

235.6(1) The applicant is an employee of a licensed commercial explosive ~~business~~ contractor.

a. If, after ~~an individual~~ a commercial explosive blaster license is issued, such employment ceases, the employing ~~business~~ contractor and the ~~individual~~ commercial explosive blaster shall each notify the state fire marshal within three business days of the final day of employment that the employment has ceased, and the ~~individual~~ commercial explosive blaster license shall be suspended until the ~~individual~~ commercial explosive blaster is again employed with a licensed commercial explosive ~~business~~ contractor.

b. Upon reemployment, the employer shall notify the state fire marshal that the ~~individual~~ commercial explosive blaster is again employed with a licensed commercial explosive ~~business~~ contractor, and the state fire marshal shall reinstate the ~~individual~~ commercial explosive blaster license as soon as practical, provided that the ~~individual~~ commercial explosive blaster is not disqualified from holding a license pursuant to any provision of this chapter.

c. If the state fire marshal finds that ~~an individual~~ a commercial explosive blaster is disqualified from holding a license, the state fire marshal shall revoke the license.

235.6(2) All items required on the application have been completed and any items the state fire marshal deems necessary to verify have been verified and found to be true.

235.6(3) The applicant is not or has not been:

a. Convicted of ~~a felony or~~ any offense involving explosives or firearms;

b. Previously disqualified from being licensed to handle explosives in this or any other state. The state fire marshal may grant a license to a person previously disqualified if the state fire marshal is satisfied that the condition or conditions that led to the disqualification have been corrected;

c. An unlawful user of or addicted to controlled substances;

d. Adjudged mentally incompetent at any time by any court or committed by any court to any mental institution; or

e. A recipient of inpatient treatment for any mental illness in the past three years or a recipient of treatment by a health care professional for a serious mental illness or disorder which impairs a person's capacity to function normally and safely toward themselves or others.

235.6(4) The applicant has satisfactorily completed training approved by the state fire marshal for the handling and use of explosives. The training may be provided by the employer or by a reputable third party knowledgeable about the storage, handling, and use of explosives. The state fire marshal may accept related job experience of 640 hours or more in lieu of training if the experience is documented by a sworn affidavit provided by the employing commercial explosive ~~business~~ contractor licensee.

EXCEPTION: The state fire marshal may issue ~~an individual~~ a commercial explosive blaster license to a person licensed or certified as a blaster in another state, provided that the state fire marshal finds that the requirements for licensing or certification in the other state are comparable to those provided for in this rule.

235.6(5) An applicant for a renewal license has completed continuing education from a nationally recognized institution in professional explosives storage, handling, and use.

~~**235.6(5)**~~ **235.6(6)** The applicant is 21 years of age or older.

ITEM 6. Renumber existing rule **661—235.6(101A)** as **661—235.8(101A)**.

ITEM 7. Adopt the following **new** rule 661—235.7(272C):

661—235.7(272C) Licensure of persons licensed in other jurisdictions.

235.7(1) For the purposes of this rule, "issuing jurisdiction" means the duly constituted authority in another state that has issued a professional license, certificate, or registration to a person.

235.7(2) Notwithstanding any other provision of law, a commercial explosives contractor license or commercial blaster license shall be issued without an examination to a person who establishes residency in this state or to a person who is married to an active duty member of the military forces of the United States and who is accompanying the member on an official permanent change of station to a military installation located in this state if all of the following conditions are met:

a. The person is currently licensed by at least one other issuing jurisdiction as a commercial explosives contractor or commercial blaster with a substantially similar scope of practice and the license is in good standing in all issuing jurisdictions in which the person holds a license.

b. The person has been licensed by another issuing jurisdiction for at least one year.

c. When the person was licensed by the issuing jurisdiction, the issuing jurisdiction imposed minimum educational requirements and, if applicable, work experience, and the issuing jurisdiction verifies that the person met those requirements in order to be licensed in that issuing jurisdiction.

d. The person previously passed an examination required by the other issuing jurisdiction for licensure, if applicable.

e. The person has not had a license revoked and has not voluntarily surrendered a license in any other issuing jurisdiction or country while under investigation for unprofessional conduct.

f. The person has not had discipline imposed by any other regulating entity in this state or another issuing jurisdiction or country. If another jurisdiction has taken disciplinary action against the person, the state fire marshal shall determine if the cause for the action was corrected and the matter resolved. If the state fire marshal determines that the matter has not been resolved by the jurisdiction imposing discipline, the state fire marshal shall not issue or deny a license to the person until the matter is resolved.

g. The person does not have a complaint, allegation, or investigation pending before any regulating entity in another issuing jurisdiction or country that relates to unprofessional conduct. If the person has any complaints, allegations, or investigations pending, the state fire marshal shall not issue or deny a license to the person until the complaint, allegation, or investigation is resolved.

h. The person pays all applicable fees.

i. The person does not have a criminal history that would prevent the person from holding the commercial explosives contractor license or commercial blaster license applied for in this state.

235.7(3) A person licensed pursuant to this rule is subject to the laws regulating the person's practice in this state and is subject to the jurisdiction of the state fire marshal.

235.7(4) This rule does not apply to any of the following:

a. The ability of the state fire marshal to require the submission of fingerprints or completion of a criminal history check.

b. The ability of the state fire marshal to require a person to take and pass an examination specific to the laws of this state prior to issuing a license. If the state fire marshal requires an application to take and pass an examination specific to the laws of this state, the state fire marshal shall issue an applicant a temporary license that is valid for a period of three months and may be renewed once for an additional period of three months.

235.7(5) Except as provided in subrule 235.7(2), a person applying for a license in this state who relocates to this state from another state that did not require a license to practice as a commercial explosives contractor or commercial blaster may be considered to have met any education, training, or work experience requirements imposed by the state fire marshal in this state if the person has three or more years of related work experience with a substantially similar scope of practice within the four years preceding the date of application as determined by the state fire marshal.

235.7(6) A person applying for a license in this state under the requirements of this subrule shall submit their request in writing to the state fire marshal as established in subrule 235.1(1) providing proof of residency in this state and documentation to verify all conditions are met under this subrule.

ITEM 8. Renumber existing rules **661—235.7(101A,252J)** to **661—235.9(101A,272D)** as **661—235.10(101A,252J)** to **661—235.12(101A,272D)**.

ITEM 9. Amend renumbered rule 661—235.8(101A) as follows:

661—235.8(101A) Inventory and records. Each licensed commercial explosive business shall maintain records as referenced in the National Fire Protection Association (NFA) chapter 495 "Explosive Material Code" as adopted by reference in rule 661—231.1(101A).

~~**235.8(1)** Each licensed commercial explosive business shall maintain records to show amounts of explosive material on hand at the beginning and end of each working day and quantities dispensed and to whom. The business shall conduct physical inventories at least once annually. Anytime a shortage appears that is in excess of limits established by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives, the shortage shall be reported within 24 hours to the chief of police or sheriff having jurisdiction, who in turn shall cause a federal Form 4712 (Department of Treasury, Internal Revenue Service) to be completed, a copy of which shall be sent to the commercial explosive licensing program, as specified in rule 661—235.1(101A). Inventory records shall be retained for five years after the date for which the activity is recorded and shall be made available upon request of the fire marshal.~~

~~**235.8(2)** Each licensed individual blaster shall maintain a daily record of all explosive materials received and fired or otherwise disposed of by the individual blaster. Such records are the property of the business license holder, who shall retain them for five years and make them available to the fire marshal upon request.~~

~~**235.8(3)** Any loss, theft, or unlawful removal of explosive materials shall be reported within 24 hours to the Bureau of Alcohol, Tobacco, Firearms and Explosives, to the fire marshal and to the local law enforcement agency having jurisdiction.~~

~~**235.8(4)** Any accident involving explosive materials that causes an injury to a person which requires medical attention or that causes damage to property beyond the limits of the property on which the~~

~~blasting is being conducted or to property for which the responsible person has not provided a written waiver to the blasting operation shall be reported promptly to the fire marshal.~~

ITEM 10. Adopt the following **new** rule 661—235.9(100C):

661—235.9(100C) Complaints. Complaints regarding the performance of any licensed contractor or blaster, failure of a licensed contractor or blaster to meet any of the requirements established in Iowa Code chapter 101A or this chapter or any other provision of law, or operation as a commercial explosives contractor or commercial blaster without licensure may be filed with the state fire marshal. Complaints should be addressed as follows:

State Fire Marshal Division
Iowa Department of Public Safety
Attn: SFM Licensing Administration
215 East 7th Street
Des Moines, Iowa 50319

Complaints may be submitted by electronic mail to sfmlicense@dps.state.ia.us or by the United States Postal Service.

Complaints should be as specific as possible and shall clearly identify the contractor or blaster against whom the complaint is filed. Complaints shall be submitted in writing to the state fire marshal. A complaint may be submitted anonymously, but if the name and contact information of the complainant are provided, the complainant will be notified of the disposition of the complaint.

ITEM 11. Amend renumbered rules 661—235.10(101A,252J) to 661—235.12(101A,272D) as follows:

661—235.10(101A,252J) Grounds for suspension, revocation, or denial of commercial explosive licenses; appeals.

235.10(1) The state fire marshal may refuse to issue a ~~commercial~~ contractor or ~~individual~~ blaster license for the manufacture, importation, distribution, sale, and commercial use of explosives sought pursuant to Iowa Code section 101A.2 or may suspend or revoke such a license for any of the following reasons:

a. Finding that the applicant or licensee is not of good moral character and sound judgment. "Not of good moral character and sound judgment" means disqualified by any provision of federal or Iowa law from possessing explosives, firearms, or offensive weapons.

b. Finding that the applicant or licensee lacks sufficient knowledge of the use, handling, and storage of explosive materials to protect the public safety.

c. Finding that the applicant or licensee falsified information in the current or any previous license application.

d. Finding that the applicant or licensee has been adjudged mentally incompetent at any time by any court, been committed by any court to any mental institution, received inpatient treatment for any mental illness in the past three years, or received treatment by a health care professional for a serious mental illness or disorder which impairs a person's capacity to function normally and safely, both toward themselves and others.

e. Proof that the licensee or applicant has violated any provision of Iowa Code chapter 101A, this chapter, or 661—Chapter 231.

f. Receipt of a certificate of noncompliance from the child support recovery unit of the Iowa department of human services, pursuant to the procedures set forth in Iowa Code chapter 252J.

g. Receipt of a certificate of noncompliance from the centralized collection unit of the department of revenue, pursuant to Iowa Code chapter 272D.

h. Conviction of a felony offense, if the offense directly relates to the profession or occupation of the licensee, in the courts of this state or another state, territory or country. Conviction as used in this subrule includes a conviction of an offense which if committed in this state would be a felony without regard to its designation elsewhere and includes a finding or verdict of guilt made or returned in a criminal

proceeding even if the adjudication of guilt is withheld or not entered. A certified copy of the final order or judgment of conviction or plea of guilty in this state or in another state constitutes conclusive evidence of the conviction. If an applicant is denied under this provision, the applicant shall be notified of the specific reasons for the denial.

i. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the licensee's profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

j. Willful or repeated violations of the provisions of this chapter.

235.10(2) An applicant or licensee whose application is denied or a licensee whose license is suspended or revoked for a reason other than receipt of a certificate of noncompliance from the child support recovery unit or a certificate of noncompliance from the department of revenue may appeal that action pursuant to 661—Chapter 10, except that wherever "commissioner of public safety" or "department of public safety" appears, "state fire marshal" shall be substituted. Applicants or licensees whose licenses are denied, suspended, or revoked because of receipt by the department of a certificate of noncompliance issued by the child support recovery unit or the department of revenue shall be subject to the provisions of rule ~~661—235.7(101A,252J)~~ 661—235.10(101A,252J). Procedures specified in 661—Chapter 10 for contesting department actions shall not apply in these cases.

235.10(3) The state fire marshal shall notify the employing commercial explosive ~~business~~ contractor licensee of the denial, suspension, or revocation of ~~an individual~~ a commercial explosive blaster license.

235.10(4) *Disqualifications for criminal convictions limited.*

a. Notwithstanding any other provision of law to the contrary, a person's conviction of a crime may be grounds for the denial, revocation, or suspension of a license only if an unreasonable risk to public safety exists because the offense directly relates to the duties and responsibilities of the profession and the state fire marshal does not grant an exception pursuant to paragraph 235.10(4)*"d."*

b. The state fire marshal shall provide a list of the specific convictions that may disqualify an applicant from receiving a license. Any such offense shall be an offense that directly relates to the duties and responsibilities of the profession.

c. The state fire marshal shall not deny an application for a license on the basis of an arrest that was not followed by a conviction or based on a finding that an applicant lacks good character, suffers from moral turpitude, or on other similar basis.

d. The state fire marshal shall grant an exception to an applicant who would otherwise be denied a license due to a criminal conviction if the following factors establish by clear and convincing evidence that the applicant is rehabilitated and an appropriate candidate for licensure:

(1) The nature and seriousness of the crime for which the applicant was convicted.

(2) The amount of time that has passed since the commission of the crime. There is a rebuttable presumption that an applicant is rehabilitated and an appropriate candidate for licensure five years after the date of the applicant's release from incarceration, provided that the applicant was not convicted of sexual abuse in violation of Iowa Code section 709.4, a sexually violent offense as defined in Iowa Code section 229A.2, dependent adult abuse in violation of Iowa Code section 235B.20, a forcible felony as defined in Iowa Code section 702.11, or domestic abuse assault in violation of Iowa Code section 708.2A, and the applicant has not been convicted of another crime after release from incarceration.

(3) The circumstances relative to the offense, including any aggravating and mitigating circumstances or social conditions surrounding the commission of the offense.

(4) The age of the applicant at the time the offense was committed.

(5) Any treatment undertaken by the applicant.

(6) Whether a certification of employability has been issued to the applicant pursuant to Iowa Code section 906.19.

(7) Any letters of reference submitted on behalf of the applicant.

(8) All other relevant evidence of rehabilitation and present fitness of the applicant.

e. An applicant may petition the state fire marshal in writing as specified in 661—subrule 275.1(4) for a determination as to whether the applicant's criminal record will prevent the applicant from receiving

a license. The state fire marshal shall issue such a determination within 30 days of receiving the petition. The state fire marshal shall determine whether an applicant's criminal record will prevent the applicant from receiving a license and while determining whether to deny an applicant's application on the basis of an applicant's criminal conviction. The state fire marshal may charge a fee to recoup the costs of such a determination, provided that such fee shall not exceed $25.

f. When the state fire marshal denies an applicant a license solely or partly because of the applicant's prior conviction of a crime, the state fire marshal shall notify the applicant in writing of all of the following:

(1) The grounds for the denial or disqualification.

(2) That the applicant has the right to a hearing to challenge the state fire marshal's decision.

(3) The earliest date the applicant may submit a new application.

(4) That evidence of rehabilitation of the applicant may be considered upon reapplication.

g. A determination by the state fire marshal that an applicant's criminal conviction is specifically listed as a disqualifying conviction and the offense directly relates to the duties and responsibilities of the applicant's profession must be documented in written findings for each factor specified in paragraph 235.10(4)*"d"* sufficient for a review by a court.

h. In any administrative or civil hearing authorized by this rule or Iowa Code chapter 17A, the state fire marshal shall carry the burden of proof on the question of whether the applicant's criminal offense directly relates to the duties and responsibilities of the profession for which the license is sought.

i. The state fire marshal may require an applicant with a criminal record to submit the applicant's complete criminal record detailing an applicant's offenses with an application. The state fire marshal may also require an applicant with a criminal record to submit a personal statement regarding whether each offense directly relates to the duties and performance of the applicant's occupation. For the purposes of this subrule, "complete criminal record" includes the complaint and judgment of conviction for each offense of which the applicant has been convicted.

661—235.11(101A,252J) Child support collection procedures. The following procedures shall apply to actions taken by the state fire marshal on a certificate of noncompliance received from the Iowa department of human services pursuant to Iowa Code chapter 252J:

235.11(1) The notice required by Iowa Code section 252J.8 shall be served upon the applicant or licensee by restricted certified mail, return receipt requested, or personal service in accordance with Iowa Rule of Civil Procedure 1.305. Alternatively, the licensee or applicant may accept service personally or through authorized counsel.

235.11(2) The effective date of revocation or suspension of a license or denial of the issuance or renewal of a license, as specified in the notice required by Iowa Code section 252J.8, shall be 60 days following service upon the licensee or applicant.

235.11(3) Licensees and applicants for licensure shall keep the state fire marshal informed of all court actions and all child support recovery unit actions taken under or in connection with Iowa Code chapter 252J and shall provide the state fire marshal with copies, within ~~7~~ seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 252J.9, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the child support recovery unit.

235.11(4) All fees for applications, license renewal or reinstatement must be paid by the licensee or applicant before a license will be issued, renewed, or reinstated after the state fire marshal has denied the issuance or renewal of a license or has suspended or revoked a license pursuant to Iowa Code chapter 252J.

235.11(5) In the event a licensee or applicant files a timely district court action following service of a notice pursuant to Iowa Code sections 252J.8 and 252J.9, the state fire marshal shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the state fire marshal to proceed. For the purpose of determining the effective date of revocation, suspension or denial of the issuance or renewal of a license, the state fire

marshal shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

NOTE: The procedures established in this rule implement the requirements of Iowa Code chapter 252J. The provisions of Iowa Code chapter 252J establish mandatory requirements for an agency which administers a licensure program, such as the one established in this chapter, and provide that actions brought under these provisions are not subject to contested case procedures established in Iowa Code chapter 17A but must be appealed directly to district court.

661—235.12(101A,272D) Suspension or revocation for nonpayment of debts owed state or local government. The following procedures shall apply to actions taken by the state fire marshal on a certificate of noncompliance received from the Iowa department of revenue pursuant to Iowa Code chapter 272D.

235.12(1) The notice required by Iowa Code section 272D.3 shall be served upon the licensee by regular mail.

235.12(2) The effective date of revocation or suspension of a license, as specified in the notice required by Iowa Code section 272D.3, shall be 20 days following service of the notice upon the licensee.

235.12(3) Licensees shall keep the state fire marshal informed of all court actions and centralized collection unit actions taken under or in connection with Iowa Code chapter 272D and shall provide the state fire marshal with copies, within ~~7~~ seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 272D.9, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the centralized collection unit.

235.12(4) All applicable fees for an application or reinstatement must be paid by the licensee before a license will be issued, renewed, or reinstated after the state fire marshal has denied the issuance or renewal of a license or has suspended or revoked a license pursuant to Iowa Code chapter 272D.

235.12(5) In the event the licensee files a timely district court action following service of a notice pursuant to Iowa Code section 272D.8, the state fire marshal shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the state fire marshal to proceed. For the purpose of determining the effective date of revocation or suspension of the license, the state fire marshal shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

235.12(6) Suspensions or revocations imposed pursuant to this rule may not be appealed administratively to the state fire marshal or within the department of public safety.

NOTE: The procedures established in ~~rule 661—235.9(101A,272D)~~ this rule implement the requirements of Iowa Code chapter 272D. The provisions of Iowa Code chapter 272D establish mandatory requirements for an agency which administers a licensing program and provide that actions brought under these provisions are not subject to contested case procedures established in Iowa Code chapter 17A, but must be appealed directly to district court.

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PUBLIC SAFETY DEPARTMENT[661]

Notice of Intended Action

Proposing rule making related to licensing of fire protection and alarm systems contractors and technicians and providing an opportunity for public comment

The Public Safety Department hereby proposes to amend Chapter 275, "Certification of Automatic Fire Extinguishing System Contractors," Chapter 276, "Licensing of Fire Protection System Installers and Maintenance Workers," and Chapter 277, "Certification of Alarm System Contractors and Installers," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 100C.7 and 100D.5.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 100C and 100D.

Purpose and Summary

The purposes of amending Chapters 275, 276, and 277 are to remove provisional language that no longer applies, to add updated language for new qualifications that are now accepted by the State Fire Marshal's office, and to comply with changes passed in 2020 Iowa Acts, House File 2627, for Iowa Code chapter 272C. Included in the updates are references to the current titles for licensure within the industry. Provisional language that has been removed related to dates ten years or more in the past that were specifically referenced within the rules.

Fiscal Impact

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

Jobs Impact

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

Waivers

Pursuant to the provisions of rule 661—10.222(17A), the Department does not have authority to waive requirements established by statute. Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the provisions of rule 661—10.222(17A).

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on December 8, 2020. Comments should be directed to:

Sarah Jennings
Department of Public Safety
Oran Pape State Office Building
215 East 7th Street
Des Moines, Iowa 50319
Phone: 515.725.6185
Email: jennings@dps.state.ia.us

Public Hearing

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

Review by Administrative Rules Review Committee

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

PUBLIC SAFETY DEPARTMENT[661](cont'd)

The following rule-making actions are proposed:

ITEM 1. Amend **661—Chapter 275**, title, as follows:

~~CERTIFICATION~~ LICENSING OF ~~AUTOMATIC~~ FIRE ~~EXTINGUISHING~~ PROTECTION SYSTEM CONTRACTORS

ITEM 2. Amend rules 661—275.1(100C) to 661—275.4(100C) as follows:

661—275.1(100C) Establishment of program. There is established within the state fire marshal division a fire extinguishing system contractors ~~certification~~ licensure program called the fire protection system contractor license. The program is established pursuant to Iowa Code chapter 100C.

275.1(1) *~~Certification~~ Licensure required.* No person shall act as a fire extinguishing system contractor without being currently ~~certified~~ licensed as a fire ~~extinguishing~~ protection system contractor by the state fire marshal~~, except as provided in subrule 275.1(3)~~.

275.1(2) *Endorsement.* The ~~certification~~ licensure of each contractor shall carry an endorsement for one or more of the following:

a. Automatic sprinkler system ~~layout;~~ installation.

b. Special hazards ~~suppression~~ systems~~;~~ installation.

c. ~~Installation of preengineered~~ Preengineered dry chemical or wet agent fire suppression systems~~;~~ installation.

d. ~~Installation of preengineered~~ Preengineered water-based fire suppression systems in one- and two-family dwellings~~;~~ installation.

e. ~~Testing and inspection of water-based systems; or~~ Automatic sprinkler system maintenance inspection.

f. ~~Any combination thereof~~ Special hazards system maintenance inspection.

g. Preengineered dry chemical or wet agent fire suppression systems maintenance inspection.

h. Preengineered water-based fire suppression systems in one- and two-family dwellings maintenance inspection.

Any person acting as a fire extinguishing system contractor shall do so only in relation to systems covered by the endorsements on the contractor's ~~certification~~ license.

275.1(3) *Length of ~~certification~~ licensure.* ~~Certification~~ A license shall normally be for one year and shall expire on March 31 each year. A ~~certification~~ license which is effective on a date other than April 1 shall be effective on the date on which the ~~certification~~ license is issued and shall expire on the following March 31.

~~*a.* Certification between July 1, 2006, and October 1, 2006. A contractor may operate without certification between July 1, 2006, and September 30, 2006, as follows:~~

~~(1) Prior to August 15, 2006, the contractor may operate as a contractor only if the contractor intends to apply for certification by August 15, 2006; a contractor operating under this subparagraph may perform contracting work only within the scope of certification for which the contractor intends to apply.~~

~~(2) On or after August 15, 2006, and before October 1, 2006, the contractor may operate as a contractor subject to this chapter only if the contractor has applied for certification under this chapter. A contractor operating under this subparagraph may perform contracting work only within the scope of certification for which the contractor has applied.~~

~~*b.* Any certification for which application is made by August 15, 2006, and accepted, shall be effective retroactive to July 1, 2006, and appropriate fees shall be collected pursuant to rule 661—275.5(100C).~~

275.1(4) *Inquiries.* ~~Inquires~~ Inquiries regarding the fire ~~extinguishing system contractors certification program~~ protection system contractor license may be addressed to:

~~Fire Extinguishing System Contractors Certification Program~~

State Fire Marshal Division

Iowa Department of Public Safety

~~State Public Safety Headquarters Building~~ Attn: SFM Licensing Administration

215 East 7th Street
Des Moines, Iowa 50319

Inquiries may be addressed by electronic mail to ~~fsccp@dps.state.ia.us, by telephone to (515)725-6145, or by facsimile to (515)725-6172~~ sfmlicense@dps.state.ia.us or by the United States Postal Service.

661—275.2(100C) Definitions. The following definitions apply to rules 661—275.1(100C) through ~~661—275.7(100C)~~ 661—275.9(100C):

"Aerosol fire extinguishing system" means a system that uses a combination of microparticles and gaseous matter to flood the protected area. The particles are in a vapor state until discharged from the device. On release, a chain reaction produces solid particles and gaseous matter to suppress the fire.

"Automatic dry-chemical extinguishing system" means a system supplying a powder composed of small particles, usually of sodium bicarbonate, potassium bicarbonate, urea-potassium-based bicarbonate, potassium chloride, or monoammonium phosphate, with added particulate material supplemented by special treatment to provide resistance to packing, resistance to moisture absorption, and the proper flow capabilities.

"Automatic fire extinguishing system" means a system of devices and equipment that automatically detects a fire and discharges an approved fire extinguishing agent onto or in the area of a fire and includes automatic sprinkler systems, carbon dioxide extinguishing systems, deluge systems, automatic dry-chemical extinguishing systems, foam extinguishing systems, ~~and~~ halogenated extinguishing systems, aerosol systems, hybrid-inert water mist systems, or other equivalent fire extinguishing technologies recognized by the fire extinguishing system contractors advisory board.

"Automatic sprinkler system" means an integrated fire protection sprinkler system usually activated by heat from a fire designed in accordance with fire protection engineering standards and includes a suitable water supply. The portion of the system above the ground is a network of specially sized or hydraulically designed piping installed in a structure or area, generally overhead, and to which automatic sprinklers are connected in a systematic pattern.

"Carbon dioxide extinguishing system" means a system supplying carbon dioxide from a pressurized vessel through fixed pipes and nozzles and includes a manual or automatic actuating mechanism.

"Clean agent" means an electrically nonconducting, volatile, or gaseous fire extinguishant that does not leave a residue upon evaporation.

"Deluge system" means a sprinkler system employing open sprinklers attached to a piping system connected to a water supply through a valve that is opened by the operation of a detection system installed in the same area as the sprinklers.

"Dry chemical" means a powder composed of very small particles, usually sodium bicarbonate-, potassium bicarbonate-, or ammonium phosphate-based, with added particulate material supplemented by special treatment to provide resistance to packing, resistance to moisture absorption (caking), and the proper flow capabilities.

"Dry pipe sprinkler system" means an extinguishing system employing automatic sprinklers that are attached to a piping system containing air or nitrogen under pressure, the release of which (as from the opening of a sprinkler) permits the water pressure to open a valve known as a dry pipe valve, which allows the water to flow into the piping system and out the opened sprinklers.

"Fire extinguishing system contractor," "fire protection system contractor," or *"contractor"* means a person engaging in or representing oneself to the public as engaging in the activity or business of layout, installation, repair, alteration, addition, maintenance, or maintenance inspection of automatic fire extinguishing systems in this state.

"Foam extinguishing system" means a special system discharging foam made from concentrates, either mechanically or chemically, over the area to be protected.

"Halogenated extinguishing system" means a fire extinguishing system using one or more atoms of an element from the halogen chemical series of fluorine, chlorine, bromine, and iodine.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

"Hybrid-inert water mist system" means a system that combine the benefits of inert gas systems and water mist systems to extinguish fires. These systems provide both extinguishment and cooling to prevent reignition utilizing nontoxic, non-ozone-depleting hybrid media.

"Layout" means drawings, calculations and component specifications to achieve the specified system design installation. "Layout" does not include design.

"Listed" means equipment, materials, or services included in a list published by a nationally recognized independent testing organization concerned with evaluation of products or services that maintains periodic inspection of production of listed equipment or materials or periodic evaluation of services and whose listing states that either the equipment, material, or service meets appropriate designated standards or has been tested and found suitable for a specified purpose.

"Maintenance inspection" means periodic inspection and certification completed by a fire extinguishing system contractor. For purposes of this chapter, "maintenance inspection" does not include an inspection completed by a local building official, fire inspector, or insurance inspector, when acting in an official capacity.

"Offense directly relates" refers to either of the following:

1. The actions taken in furtherance of an offense are actions customarily performed within the scope of practice of a licensed profession.

2. The circumstances under which an offense was committed are circumstances customary to a licensed profession.

"Preengineered dry chemical or wet agent fire suppression system" means any system having predetermined flow rates, nozzle pressures and limited quantities of either agent. These systems have specific pipe sizes, maximum and minimum pipe lengths, flexible hose specifications, number of fittings and number and types of nozzles prescribed by a nationally recognized testing laboratory. The hazards against which these systems protect are specifically limited by the testing laboratory as to the type and size based upon actual fire tests. Limitations on hazards that can be protected against by these systems are contained in the manufacturer's installation manual, which is referenced as part of the listing.

"Preengineered water-based system" means a packaged, water-based sprinkler system including all components connected to a water supply and designed to be installed according to pretested limitations.

"Responsible managing employee" means an owner, partner, officer, or manager employed full-time by a fire extinguishing system contractor who is designated as a responsible managing employee for a fire extinguishing system contractor and who meets the requirements for a responsible managing employee established in rule 661—275.3(100C).

"Special hazards ~~suppression~~ system" means a fire extinguishing system utilizing fire detection and control methods to release an extinguishing agent, other than water connected to a dedicated fire protection water supply.

"Wet agent" or *"wet chemical"* means an aqueous solution of organic or inorganic salts or a combination thereof that forms an extinguishing agent.

661—275.3(100C) Responsible managing employee. Each fire extinguishing system contractor shall designate a responsible managing employee and may designate one or more alternate responsible managing employees. A contractor may designate more than one responsible managing employee in order to satisfy the requirements for more than one endorsement as provided in subrule 275.1(2). If more than one responsible managing employee is designated, the contractor shall indicate for which responsible managing employee each designated alternate managing employee serves as an alternate.

275.3(1) The responsible managing employee or employees shall be designated in the application for ~~certification;~~ licensure, and, if a responsible managing employee is no longer acting in that role, the contractor shall so notify the fire marshal, in writing, within 30 calendar days, ~~on a form designated by the fire marshal~~ as provided in subrule 275.1(4).

275.3(2) If a responsible managing employee is no longer acting in that role and the contractor has designated an alternate responsible managing employee, the alternate responsible managing employee shall become the responsible managing employee and the contractor shall so notify the state fire marshal, in writing, within 30 calendar days of the date on which the preceding responsible managing

employee ceased to act in that role. If the contractor has designated more than one alternate responsible managing employee, the notice to the state fire marshal shall indicate which alternate responsible managing employee has assumed the position of responsible managing employee.

275.3(3) If a responsible managing employee designated by a fire extinguishing system contractor is no longer acting in the role of responsible managing employee and the contractor has not designated an alternate responsible managing employee, the contractor shall designate a new responsible managing employee and shall notify the state fire marshal, in writing as provided in subrule 275.1(4), of the designation within six months of the date on which the former responsible managing employee ceased to act in that capacity~~, on a form designated by the fire marshal~~. If the state fire marshal has not been notified of the appointment of a new responsible managing employee within six months of the date on which a responsible managing employee ceased serving in that capacity, the state fire marshal shall suspend the ~~certification~~ license of the fire ~~extinguishing~~ protection system contractor.

275.3(4) A responsible managing employee or an alternate responsible managing employee shall meet one of the ~~following~~ requirements for the following endorsements:

a. ~~Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in fire extinguishing system design.~~ Automatic sprinkler system installation:

(1) Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in fire extinguishing system design, or

(2) Current certification by the National Institute for Certification in Engineering Technologies (NICET) at level III or above in water-based systems layout, or

(3) Satisfactory completion of an applicable training or testing program that has been approved by the state fire marshal.

b. ~~Current certification by the National Institute for Certification in Engineering Technologies at level III or above in fire protection technology, for automatic sprinkler system layout, special hazards suppression systems, or both.~~ Special hazards system installation:

(1) ~~Prior to April 1, 2008, a fire extinguishing system contractor may receive provisional certification if the person designated as the contractor's responsible managing employee has initiated procedures for obtaining certification by the National Institute for Certification in Engineering Technologies at level III in fire protection technology for automatic sprinkler system layout, special hazards suppression systems, or both, and has satisfactorily completed testing which is offered by a third party and has been approved by the fire marshal, for competency in fire protection technology for automatic sprinkler system layout, special hazards suppression systems, or both. The contractor shall provide the fire marshal with notification and documentation of the satisfactory completion of required third-party testing within 30 days after the date on which the contractor's provisional certification was initially issued.~~ Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in fire extinguishing system design, or

~~After one year of provisional certification of the contractor, the responsible managing employee shall have current certification by the National Institute for Certification in Engineering Technologies at level II or above in fire protection technology for automatic sprinkler system layout, special hazards suppression systems, or both. Documentation that this requirement has been met shall be provided by the contractor to the fire marshal within 30 days after the one-year anniversary of the effective date of the initial provisional certification.~~

~~Provisional certification shall not be recognized on or after April 1, 2009.~~

(2) ~~Reserved.~~ Current certification by the National Institute for Certification in Engineering Technologies (NICET) at level III or above in special hazard systems, or

(3) Satisfactory completion of an applicable training or testing program that has been approved by the state fire marshal.

c. ~~A contractor may install preengineered dry chemical or wet agent fire suppression systems, if the responsible managing employee meets the requirements specified in subparagraph (1). Until April 1, 2009, a contractor may install preengineered dry chemical or wet agent fire suppression systems, if the responsible managing employee meets the requirements specified in subparagraph (2), and the contractor~~

~~has received provisional certification prior to April 1, 2008.~~ Preengineered dry chemical or wet agent fire suppression system installation:

(1) ~~Certification by the National Institute for Certification in Engineering Technologies at level II or above in fire protection technology, for special hazards suppression systems; certification by the National Association of Fire Equipment Distributors in preengineered kitchen fire suppression systems or preengineered industrial fire suppression systems; or satisfactory completion of an applicable training or testing program which has been approved by the fire marshal.~~ Current certification by the National Institute for Certification in Engineering Technologies (NICET) at level II or above in special hazard systems, or

(2) ~~On or prior to April 1, 2008, a contractor may receive provisional certification with endorsement for installation of preengineered dry chemical or wet agent systems if the responsible managing employee has completed training required by a manufacturer of at least one system which the contractor installs or maintains. A contractor who is applying for provisional certification on or after April 1, 2007, shall provide documentation to the fire marshal of such training. A contractor who has received provisional certification prior to April 1, 2007, shall, by April 1, 2007, provide documentation of either training required by a manufacturer of at least one system which the contractor installs or maintains or of the training described in subparagraph (1). If satisfactory documentation is provided of the training required in subparagraph (1), the provisional status of the certification shall be removed at no cost to the contractor.~~ Current certification by the National Association of Fire Equipment Distributors (NAFED) in preengineered kitchen fire suppression systems, preengineered industrial fire suppression systems, or both, or

~~Provisional certification shall not be recognized on or after April 1, 2009.~~

(3) Satisfactory completion of any training required by the manufacturer for the installation of any system the contractor installs, or

(4) Satisfactory completion of an applicable training or testing program that has been approved by the state fire marshal.

d. ~~A contractor may install preengineered water-based systems in one- or two-family dwellings if the responsible managing employee meets the following requirements~~ Preengineered water-based fire suppression system in one- and two-family dwellings installation:

(1) ~~Satisfactory completion of any training required by the manufacturer for the installation of any system the contractor installs; and~~ Current certification by the National Institute for Certification in Engineering Technologies (NICET) at level II or above in special hazard systems, or

(2) Satisfactory completion of ~~an applicable training or testing program which has been approved by the fire marshal.~~ any training required by the manufacturer for the installation of any system the contractor installs, or

(3) Satisfactory completion of an applicable training or testing program that has been approved by the state fire marshal.

~~Until April 1, 2008, a contractor may receive provisional certification if the responsible managing employee has satisfactorily completed training required by the manufacturer for the installation of each system which the contractor installs. The provisional certification shall not be recognized on or after April 1, 2009.~~

e. ~~A contractor may inspect and test water-based fire extinguishing systems if the responsible managing employee has current certification from the National Institute for Certification in Engineering Technologies at level III in fire protection technology, inspection and testing of water-based systems.~~ Automatic sprinkler system maintenance inspection:

(1) ~~Prior to April 1, 2008, a contractor may receive provisional certification with an endorsement for inspection and testing of water-based fire extinguishing systems if the responsible managing employee has initiated procedures for obtaining certification from the National Institute for Certification in Engineering Technologies at level III in fire protection technology, inspection and testing of water-based systems. After one year of provisional certification with an endorsement for inspection and testing of water-based fire extinguishing systems, the responsible managing employee shall have certification from the National Institute for Certification in Engineering Technologies at level II in fire~~

~~protection technology, inspection and testing of water-based systems.~~ Current certification from the National Institute for Certification in Engineering Technologies (NICET) at level II in water-based system layout, or

~~Provisional certification shall not be recognized on or after April 1, 2009.~~

(2) ~~Reserved.~~ Current certification by the National Institute for Certification in Engineering Technologies (NICET) at level II or above in inspection and testing of water-based systems, or

(3) Satisfactory completion of an applicable training or testing program that has been approved by the state fire marshal.

f. Special hazards system maintenance inspection:

(1) Current certification by the National Institute for Certification in Engineering Technologies (NICET) at level II or above in special hazard systems, or

(2) Satisfactory completion of an applicable training or testing program that has been approved by the state fire marshal.

g. Preengineered dry chemical or wet agent fire suppression system maintenance inspection:

(1) Current certification by the National Institute for Certification in Engineering Technologies (NICET) at level I or above in special hazard systems, or

(2) Current certification by the National Association of Fire Equipment Distributors (NAFED) in preengineered kitchen fire suppression systems, preengineered industrial fire suppression systems, or both, or

(3) Satisfactory completion of any training required by the manufacturer for the maintenance and inspection of any system the contractor inspects, or

(4) Satisfactory completion of an applicable training or testing program that has been approved by the state fire marshal.

h. Preengineered water-based fire suppression system maintenance inspection:

(1) Current certification by the National Institute for Certification in Engineering Technologies (NICET) at level I or above in special hazard systems, or

(2) Satisfactory completion of any training required by the manufacturer for the maintenance and inspection of any system the contractor inspects, or

(3) Satisfactory completion of an applicable training or testing program that has been approved by the state fire marshal.

275.3(5) In any case in which training or testing that is offered to satisfy the requirements of this rule is required to be approved by the state fire marshal, such approval is required prior to acceptance of the training or testing to meet ~~certification~~ licensure requirements. Approval by the state fire marshal of any training or testing to meet these requirements may be sought by the individual, firm, or organization providing the testing or training or initiated by the state fire marshal. Any individual, firm or organization seeking to obtain such approval ~~may~~ shall apply to the state fire marshal no later than July 1, 2021, and no later than July 1 every two years thereafter. ~~An application form for approval of a testing or training program may be obtained by contacting the fire extinguishing system contractors certification program~~ Program information and any other documentation requested by the state fire marshal for consideration shall be submitted to the state fire marshal as specified in subrule 275.1(4). Training and testing approved by the state fire marshal will be listed on the state fire marshal's licensing website.

275.3(6) Work performed by a contractor subject to these rules shall be limited to areas of competence indicated by the specific certification ~~or certifications~~ or other training requirements met by the responsible managing employee. Work performed in the state shall not begin prior to:

a. Receipt of new or renewed license issued by the state fire marshal to the applicant, or

b. Receipt of written approval to perform work prior to issuance of a new or renewed license from the state fire marshal to the applicant.

275.3(7) Nothing in this rule shall be interpreted to conflict with or diminish any requirement for training or certification for anyone installing or servicing a fire extinguishing system or portable fire extinguisher set forth in any rule of the state fire marshal or local fire ordinance or standard adopted by reference therein.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

661—275.4(100C) ~~Certification~~ License requirements. A fire extinguishing system contractor shall meet all of the following requirements in order to receive ~~certification~~ licensure from the state fire marshal and shall continue to meet all requirements throughout the period of ~~certification~~ licensure. The contractor shall notify the state fire marshal, in writing, ~~on a form designated by the fire marshal~~ as specified in subrule 275.1(4), within 30 calendar days if the contractor fails to meet any requirement for ~~certification~~ licensure.

275.4(1) No change.

275.4(2) The contractor shall maintain general and complete operations liability insurance for the layout, installation, repair, alteration, addition, maintenance, and inspection of automatic fire extinguishing systems in the following amounts: $500,000 per person, $1,000,000 per occurrence, and $1,000,000 property damage.

a. The carrier of any insurance coverage maintained to meet this requirement shall notify the state fire marshal 30 days prior to the effective date of cancellation or reduction of the coverage.

b. The contractor shall cease operation immediately if the insurance coverage required by this subrule is no longer in force and other insurance coverage meeting the requirements of this subrule is not in force. A contractor shall not initiate any installation of a fire extinguishing system which cannot reasonably be expected to be completed prior to the effective date of the cancellation of the insurance coverage required by this subrule and of which the contractor has received notice, unless new insurance coverage meeting the requirements of this subrule has been obtained and will be in force upon cancellation of the prior coverage.

275.4(3) The contractor shall maintain current registration as a contractor with the labor services division of the Iowa workforce development department in compliance with Iowa Code chapter 91C and 875—Chapter 150, Iowa Administrative Code. The contractor shall provide a copy of the contractor's current registration from Iowa workforce development with the contractor's application for licensure.

EXCEPTION: A contractor shall not be required to maintain registration with the labor services division of the Iowa workforce development department if the contractor does not meet the definition of "contractor" for purposes of Iowa Code chapter 91C and 875—Chapter 150, Iowa Administrative Code. Written documentation of such exemption must be provided to the state fire marshal at the time of application for licensure as a fire protection system contractor.

275.4(4) No change.

275.4(5) A license may be renewed only if the licensee has completed recertification of the applicable requirements relative to the endorsements for which the licensee is renewing.

ITEM 3. Renumber rules **661—275.5(100C)** to **661—275.7(100C)** as **661—275.6(100C)** to **661—275.8(100C)**.

ITEM 4. Adopt the following **new** rule 661—275.5(272C):

661—275.5(272C) Licensure of persons licensed in other jurisdictions.

275.5(1) For the purposes of this rule, "issuing jurisdiction" means the duly constituted authority in another state that has issued a professional license, certificate, or registration to a person.

275.5(2) Notwithstanding any other provision of law, a fire protection system contractor license shall be issued without an examination to a person who establishes residency in this state or to a person who is married to an active duty member of the military forces of the United States and who is accompanying the member on an official permanent change of station to a military installation located in this state if all of the following conditions are met:

a. The person is currently licensed by at least one other issuing jurisdiction as a fire protection system contractor with a substantially similar scope of practice and the license is in good standing in all issuing jurisdictions in which the person holds a license.

b. The person has been licensed by another issuing jurisdiction for at least one year.

c. When the person was licensed by the issuing jurisdiction, the issuing jurisdiction imposed minimum educational requirements and, if applicable, work experience requirements, and the issuing

jurisdiction verifies that the person met those requirements in order to be licensed in that issuing jurisdiction.

d. The person previously passed an examination required by the other issuing jurisdiction for licensure, if applicable.

e. The person has not had a license revoked and has not voluntarily surrendered a license in any other issuing jurisdiction or country while under investigation for unprofessional conduct.

f. The person has not had discipline imposed by any other regulating entity in this state or another issuing jurisdiction or country. If another jurisdiction has taken disciplinary action against the person, the state fire marshal shall determine if the cause for the action was corrected and the matter resolved. If the state fire marshal determines that the matter has not been resolved by the jurisdiction imposing discipline, the state fire marshal shall not issue or deny a license to the person until the matter is resolved.

g. The person does not have a complaint, allegation, or investigation pending before any regulating entity in another issuing jurisdiction or country that relates to unprofessional conduct. If the person has any complaints, allegations, or investigations pending, the state fire marshal shall not issue or deny a license to the person until the complaint, allegation, or investigation is resolved.

h. The person pays all applicable fees.

i. The person does not have a criminal history that would prevent the person from holding the fire protection system contractor license applied for in this state.

275.5(3) A person licensed pursuant to this rule is subject to the laws regulating the person's practice in this state and is subject to the jurisdiction of the state fire marshal.

275.5(4) This rule does not apply to any of the following:

a. The ability of the state fire marshal to require the submission of fingerprints or completion of a criminal history check.

b. The ability of the state fire marshal to require a person to take and pass an examination specific to the laws of this state prior to issuing a license. If the state fire marshal requires an application to take and pass an examination specific to the laws of this state, the state fire marshal shall issue an applicant a temporary license that is valid for a period of three months and may be renewed once for an additional period of three months.

275.5(5) Except as provided in subrule 275.5(2), a person applying for a license in this state who relocates to this state from another state that did not require a license to practice as a fire protection system contractor may be considered to have met any education, training, or work experience requirements imposed by the state fire marshal in this state if the person has three or more years of related work experience with a substantially similar scope of practice within the four years preceding the date of application as determined by the state fire marshal.

275.5(6) A person applying for a license in this state under the requirements of this subrule shall submit their request in writing to the state fire marshal as established in subrule 275.1(4) providing proof of residency in this state and documentation to verify all conditions are met under this subrule.

ITEM 5. Amend renumbered rules 661—275.6(100C) to 661—275.8(100C) as follows:

661—275.6(100C) Application and fees.

275.6(1) *Application.* Any contractor seeking ~~certification~~ licensure as a fire ~~extinguishing~~ protection system contractor shall submit a completed application form to the state fire marshal. The application shall be filed no later than 30 days prior to the date ~~on which certification is required~~ of beginning work in this state or the date on which an existing ~~certification~~ license expires. An application form may be obtained from the state fire marshal or from the ~~Web site of the fire extinguishing system contractors certification program~~ state fire marshal's website. The application form shall be submitted with all required attachments and the required application fee established in subrule ~~275.5(2)~~ 275.6(2). An application shall not be considered complete unless all required information is submitted, including required attachments and fees, and shall not be processed until it is complete.

NOTE: The ~~Web site~~ website for the fire ~~extinguishing system contractors certification~~ protection system contractor license program is: ~~http://www.dps.state.ia.us/fm/fesccp/index.shtml~~ dps.iowa.gov/divisions/state-fire-marshal/licensing/fire-protection.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

275.6(2) ~~*Certification*~~ *License fee.*

a. The ~~certification~~ license fee shall be $500 per year. ~~If an application is denied, all except $100 of the fee may be refunded if the applicant applies to the fire marshal for a refund. No refund of the certification fee shall be made if the certification is revoked or if the denial of the certification is based on the applicant's knowingly including false or misleading information on the application.~~

b. If an application for ~~certification~~ licensure provides for more than one responsible managing employee pursuant to rule 661—275.3(100C), there shall be an additional fee of $50 for each responsible managing employee beyond the first. If an application for ~~certification~~ licensure provides for more than one endorsement as provided in subrule 275.1(2), there shall be an additional fee of $50 for each endorsement beyond the first.

c. The state fire marshal shall waive any fee charged to an applicant for a license if the applicant's household income does not exceed 200 percent of the federal poverty income guidelines and the applicant is applying for the license for the first time in this state.

~~EXCEPTION: If a certification is effective after April 1 and no later than June 30, the certification fee shall be $500. The certification fee for a certification which becomes effective between July 1 and September 30 shall be $400. The certification fee for a certification which becomes effective between October 1 and December 31 shall be $300. The certification fee for a certification which becomes effective between January 1 and March 31 shall be $200. If an application for certification provides for more than one responsible managing employee pursuant to rule 661—275.3(100C), there shall be an additional fee of $50 for each responsible managing employee beyond the first. If an application for certification provides for more than one endorsement as provided in subrule 275.1(2), there shall be an additional fee of $50 for each endorsement beyond the first.~~

275.6(3) *Payment.* The ~~certification~~ license fee shall be submitted electronically or by draft, check, or money order in the applicable amount payable to the ~~Fire Extinguishing System Contractors Certification Program~~ Iowa State Fire Marshal Division. Draft, check, or money order shall be addressed to the state fire marshal as established in subrule 275.1(4). ~~If the application is denied, the certification fee less $100 shall be returned to the applicant, except as provided in subrule 275.5(2).~~ Payment shall not be made in cash.

275.6(4) *Amended* ~~*certification*~~ *licensure fee.* The fee for issuance of an amended ~~certification~~ license is ~~$100~~ the difference between the original license fee paid and changes in endorsement(s) or responsible managing employee(s), if applicable. The fee shall be submitted with the request for an amended ~~certification~~ license. A contractor shall request and the fire marshal shall issue an amended ~~certificate~~ license for any of the items listed ~~in paragraphs *"a," "b,"* and *"c"*~~ below, and a fee does not apply:

a. A change in the designation of a responsible managing employee;

b. A change in insurance coverage; or

c. A change in any other material information included in or with the initial or renewal application. A change in the address of the business is a material change. However, if the request for an amended ~~certificate~~ license is solely a change of business address, the address of the business to which the ~~certificate~~ license being amended was sent is in an area subject to a disaster emergency proclamation issued by the governor pursuant to Iowa Code section 29C.6, and the relocation occurs as a result of flooding or storm damage or other conditions which form a basis for the issuance of the disaster emergency proclamation, the fee shall not apply, although an amended ~~certificate~~ license shall be issued.

d. Other changes in the information required in the application form, including renewal of insurance coverage with a new expiration date, shall be reported to the fire marshal but shall not require issuance of an amended ~~certification~~ license or payment of the amended ~~certification~~ license fee.

275.6(5) *Attachments.* Required attachments to the application for ~~certification~~ licensure include, but are not limited to, the following:

a. Documentation verifying that the contractor has in force the insurance coverage required by subrule 275.4(2). The documentation shall include an acknowledgment that the contractor's insurance coverage extends to any work performed by the contractor within the scope of ~~certification~~ licensure

pursuant to this chapter. The documentation may consist of a letter from the insurance carrier or a copy of the insurance certificate with an endorsement showing the required information.

b. Documentation verifying that the person designated as the responsible managing employee and any persons designated as alternate responsible managing employees have met the applicable ~~certification~~ licensure requirements.

c. Documentation of qualifying licensure in another issuing jurisdiction by providing the following:

(1) Proof of residency in this state.

(2) Proof all conditions are met as established in rule 661—275.5(272C).

1. Copy of a license from other issuing jurisdiction.

2. Evidence the applicant met the issuing jurisdiction's educational requirements and, if applicable, work experience requirements.

3. Evidence the applicant passed the issuing jurisdiction's required examination, if applicable.

4. Evidence the applicant has not had a license revoked or voluntarily surrendered, had discipline imposed, or been under investigation by another issuing jurisdiction.

5. Evidence the applicant does not have a complaint, allegation, or investigation pending before any regulatory entity related to unprofessional conduct.

661—275.7(100C) Complaints. Complaints regarding the performance of any ~~certified~~ licensed contractor, failure of a ~~certified~~ licensed contractor to meet any of the requirements established in Iowa Code chapter 100C or this chapter or any other provision of law, or operation as a fire extinguishing system contractor without ~~certification~~ licensure may be filed with the state fire marshal. Complaints should be addressed as follows:

~~Fire Extinguishing System Contractors Certification Program~~

State Fire Marshal Division

Iowa Department of Public Safety

~~State Public Safety Headquarters Building~~ Attn: SFM Licensing Administration

215 East 7th Street

Des Moines, Iowa 50319

Complaints may be submitted by electronic mail to ~~fesccp@dps.state.ia.us or by facsimile to (515)725-6172~~ sfmlicense@dps.state.ia.us or by the United States Postal Service.

Complaints should be as specific as possible and shall clearly identify the contractor against whom the complaint is filed. ~~A form which may be used to file complaints is available on the Web site of the fire extinguishing system contractors certification program. Complaints may be filed without using the complaint form provided, but shall be submitted in writing.~~ Complaints shall be submitted in writing to the state fire marshal. A complaint may be submitted anonymously, but if the name and contact information of the complainant are provided, the complainant will be notified of the disposition of the complaint.

~~NOTE: The Web site for the fire extinguishing system contractors certification program is: http://www.dps.state.ia.us/fm/fesccp/index.shtml.~~

661—275.8(100C) Denial, suspension, or revocation of ~~certification~~ licensure; civil penalties; and appeals. The state fire marshal may deny, suspend or revoke the ~~certification~~ license of a contractor, or assess a civil penalty to the contractor, if any provision of these rules or any other provision of law related to operation as a fire extinguishing system contractor is violated.

275.8(1) *Denial.* The state fire marshal may deny an application for ~~certification~~ licensure for reasons including, but not limited to:

a. If the applicant makes a false statement on the application form or in any other submission of information required for ~~certification~~ license. "False statement" means providing false information or failing to include material information, such as a previous criminal conviction or action taken by another jurisdiction, when requested on the application form or otherwise in the application process.

b. If the applicant fails to meet all of the requirements for ~~certification~~ licensure established in this chapter.

c. If the applicant is currently barred for cause from acting as a fire extinguishing system contractor in another jurisdiction.

d. If an applicant has previously been barred for cause from operating in another jurisdiction as a fire extinguishing system contractor and if the basis of that action reflects upon the integrity of the applicant in operating as a fire extinguishing system contractor. If an applicant is found to have been previously barred for cause from operating as a fire extinguishing system contractor in another jurisdiction and is no longer barred from doing so, the state fire marshal shall evaluate the record of that action with regard to the likelihood that the applicant would operate with integrity as a ~~certified~~ licensed contractor. If an applicant is denied under this provision, the applicant shall be notified of the specific reasons for the denial.

e. ~~If the applicant has been convicted of a crime which reflects upon the integrity of the applicant in operating as a fire extinguishing system contractor. If an applicant is found to have a criminal record, the fire marshal shall evaluate that record with regard to the likelihood that the applicant would operate with integrity as a certified contractor.~~ Conviction of a felony offense, if the offense directly relates to the profession or occupation of the licensee, in the courts of this state or another state, territory or country. "Conviction" as used in this subrule includes a conviction of an offense which if committed in this state would be a felony without regard to its designation elsewhere, and includes a finding or verdict of guilt made or returned in a criminal proceeding even if the adjudication of guilt is withheld or not entered. A certified copy of the final order or judgment of conviction or plea of guilty in this state or in another state constitutes conclusive evidence of the conviction. If an applicant is denied under this provision, the applicant shall be notified of the specific reasons for the denial.

f. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the licensee's profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

g. Willful or repeated violations of the provisions of this chapter.

275.8(2) *Suspension.* A suspension of a ~~certification~~ license may be imposed by the state fire marshal for any violation of these rules or Iowa Code chapter 100C or for a failure to meet any legal requirement to operate as a fire extinguishing system contractor in this state. Failure to provide any notice to the state fire marshal as provided in these rules shall be grounds for suspension. An order of suspension shall specify the length of the suspension and shall specify that correction of all conditions which were a basis for the suspension is a condition of reinstatement of the ~~certification~~ license even after the period of the suspension.

275.8(3) *Revocation.* A revocation is a termination of a ~~certification~~ license. A ~~certification~~ license may be revoked by the state fire marshal for repeated violations or for a violation which creates an imminent danger to the safety or health of individuals protected by a fire extinguishing system incorrectly installed by a ~~certified~~ licensed contractor or when information comes to the attention of the state fire marshal which, if known to the state fire marshal when the application was being considered, would have resulted in denial of the ~~certification~~ license.

A new application for ~~certification~~ licensure from a contractor whose ~~certification~~ license had previously been revoked shall not be considered for a period of one year after the effective date of the revocation and, in any event, until every condition which was a basis for the revocation has been corrected. The state fire marshal may specify in the revocation order a longer period than one year before a new application for ~~certification~~ licensure may be considered. When a new application for ~~certification~~ licensure from a contractor whose ~~certification~~ license was previously revoked is being considered, the applicant may be denied ~~certification~~ licensure based upon the same information which was the basis for revocation even after any such period established by the state fire marshal has expired.

275.8(4) *Disqualifications for criminal convictions limited.*

a. Notwithstanding any other provision of law to the contrary, a person's conviction of a crime may be grounds for the denial, revocation, or suspension of a license only if an unreasonable risk to public

safety exists because the offense directly relates to the duties and responsibilities of the profession and the state fire marshal does not grant an exception pursuant to paragraph 275.9(4)*"d."*

b. The state fire marshal shall provide a list of the specific convictions that may disqualify an applicant from receiving a license. Any such offense shall be an offense that directly relates to the duties and responsibilities of the profession.

c. The state fire marshal shall not deny an application for a license on the basis of an arrest that was not followed by a conviction or based on a finding that an applicant lacks good character, suffers from moral turpitude, or on another similar basis.

d. The state fire marshal shall grant an exception to an applicant who would otherwise be denied a license due to a criminal conviction if the following factors establish by clear and convincing evidence that the applicant is rehabilitated and an appropriate candidate for licensure:

(1) The nature and seriousness of the crime for which the applicant was convicted.

(2) The amount of time that has passed since the commission of the crime. There is a rebuttable presumption that an applicant is rehabilitated and an appropriate candidate for licensure five years after the date of the applicant's release from incarceration, provided that the applicant was not convicted of sexual abuse in violation of Iowa Code section 709.4, a sexually violent offense as defined in Iowa Code section 229A.2, dependent adult abuse in violation of Iowa Code section 235B.20, a forcible felony as defined in Iowa Code section 702.11, or domestic abuse assault in violation of Iowa Code section 708.2A, and the applicant has not been convicted of another crime after release from incarceration.

(3) The circumstances relative to the offense, including any aggravating and mitigating circumstances or social conditions surrounding the commission of the offense.

(4) The age of the applicant at the time the offense was committed.

(5) Any treatment undertaken by the applicant.

(6) Whether a certificate of employability has been issued to the applicant pursuant to Iowa Code section 906.19.

(7) Any letters of reference submitted on behalf of the applicant.

(8) All other relevant evidence of rehabilitation and present fitness of the applicant.

e. An applicant may petition the state fire marshal in writing as specified in subrule 275.1(4) for a determination as to whether the applicant's criminal record will prevent the applicant from receiving a license. The state fire marshal shall issue such a determination within 30 days of receiving the petition. The state fire marshal shall determine whether an applicant's criminal record will prevent the applicant from receiving a license while determining whether to deny an applicant's application on the basis of an applicant's criminal conviction. The state fire marshal may charge a fee to recoup the costs of such a determination, provided that such fee shall not exceed $25.

f. When the state fire marshal denies an applicant a license solely or partly because of the applicant's prior conviction of a crime, the state fire marshal shall notify the applicant in writing of all of the following:

(1) The grounds for the denial or disqualification.

(2) That the applicant has the right to a hearing to challenge the state fire marshal's decision.

(3) The earliest date the applicant may submit a new application.

(4) That evidence of rehabilitation of the applicant may be considered upon reapplication.

g. A determination by the state fire marshal that an applicant's criminal conviction is specifically listed as a disqualifying conviction and the offense directly relates to the duties and responsibilities of the applicant's profession must be documented in written findings for each factor specified in paragraph 275.8(4)*"d"* sufficient for a review by a court.

h. In any administrative or civil hearing authorized by this rule or Iowa Code chapter 17A, the state fire marshal shall carry the burden of proof on the question of whether the applicant's criminal offense directly relates to the duties and responsibilities of the profession for which the license is sought.

i. The state fire marshal may require an applicant with a criminal record to submit the applicant's complete criminal record detailing an applicant's offenses with an application. The state fire marshal may also require an applicant with a criminal record to submit a personal statement regarding whether each offense directly relates to the duties and performance of the applicant's occupation. For the purposes

of this subrule, "complete criminal record" includes the complaint and judgment of conviction for each offense of which the applicant has been convicted.

~~**275.8(4)**~~ **275.8(5)** *Civil penalties.* The state fire marshal may impose a civil penalty of up to $500 per day during which a violation has occurred and for every day until the violation is corrected. A civil penalty may be imposed in lieu of or in addition to a suspension or may be imposed in addition to a revocation. A civil penalty shall not be imposed in lieu of a revocation.

~~**275.8(5)**~~ **275.8(6)** *Suspension or revocation for nonpayment of child support.* The following procedures shall apply to actions taken by the department on a certificate of noncompliance received from the Iowa department of human services pursuant to Iowa Code chapter 252J:

a. The notice required by Iowa Code section 252J.8 shall be served upon the ~~certified~~ licensed contractor by restricted certified mail, return receipt requested, or personal service in accordance with Iowa Rule of Civil Procedure 1.305. Alternatively, the contractor may accept service personally or through authorized counsel.

b. The effective date of revocation or suspension of ~~certification~~ licensure of a contractor, as specified in the notice required by Iowa Code section 252J.8, shall be 60 days following service upon the contractor.

c. Contractors shall keep the state fire marshal informed of all court actions and all child support recovery unit actions taken under or in connection with Iowa Code chapter 252J and shall provide the state fire marshal with copies, within ~~7~~ seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 252J.9, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the child support recovery unit.

d. All applicable fees for an application or reinstatement must be paid by the contractor before a ~~certificate~~ license will be issued, renewed, or reinstated after the state fire marshal has denied the issuance or renewal of a ~~certification~~ license or has suspended or revoked a ~~certification~~ license pursuant to Iowa Code chapter 252J.

e. In the event a contractor files a timely district court action following service of a notice pursuant to Iowa Code sections 252J.8 and 252J.9, the state fire marshal shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the department to proceed. For the purpose of determining the effective date of revocation or suspension of the ~~certification~~ license, the department shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

f. Suspensions or revocations imposed pursuant to this subrule may not be appealed administratively within the department of public safety.

NOTE: The procedures established in subrule ~~275.7(5)~~ 275.8(6) implement the requirements of Iowa Code chapter 252J. The provisions of Iowa Code chapter 252J establish mandatory requirements for an agency which administers a ~~certification~~ licensure program, such as the one established in this chapter, and provide that actions brought under these provisions are not subject to contested case procedures established in Iowa Code chapter 17A, but must be appealed directly to district court.

275.8(7) *Suspension or revocation for nonpayment of debts owed state or local government.* The following procedures shall apply to actions taken by the state fire marshal on a certificate of noncompliance received from the Iowa department of revenue pursuant to Iowa Code chapter 272D:

a. The notice required by Iowa Code section 272D.3 shall be served upon the licensee by regular mail.

b. The effective date of revocation or suspension of a license, as specified in the notice required by Iowa Code section 272D.3, shall be 20 days following service upon the licensee.

c. Licensees shall keep the state fire marshal informed of all court actions and centralized collection unit actions taken under or in connection with Iowa Code chapter 272D and shall provide the state fire marshal with copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 272D.9, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the centralized collection unit.

d. All applicable fees for an application or reinstatement must be paid by the licensee before a license will be issued, renewed, or reinstated after the state fire marshal has denied the issuance or renewal of a license or has suspended or revoked a license pursuant to Iowa Code chapter 272D.

e. In the event the licensee files a timely district court action following service of a notice pursuant to Iowa Code section 272D.8, the state fire marshal shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the state fire marshal to proceed. For the purpose of determining the effective date of revocation or suspension of the license, the state fire marshal shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

f. Suspensions or revocations imposed pursuant to this subrule may not be appealed administratively to the state fire marshal or within the department of public safety.

NOTE: The procedures established in subrule 275.8(7) implement the requirements of Iowa Code chapter 272D. The provisions of Iowa Code chapter 272D establish mandatory requirements for an agency which administers a licensing program, such as the one established in this chapter, and provide that actions brought under these provisions are not subject to contested case procedures established in Iowa Code chapter 17A but must be appealed directly to district court.

275.8(6) *Appeals.* Any denial, suspension, or revocation of a ~~certification~~ license, or any civil penalty imposed upon a ~~certified~~ licensed contractor under this rule, other than one imposed pursuant to subrule ~~275.7(5)~~ 275.8(6) or 275.8(7), may be appealed by the contractor within 14 days of receipt of the notice. Appeals of actions taken by the state fire marshal under this rule shall be to the commissioner of public safety and shall be treated as contested cases, following the procedures established in rules 661—10.301(17A) through 661—10.332(17A).

ITEM 6. Adopt the following **new** rule 661—275.9(272C):

661—275.9(272C) Veterans, military service members, and certain survivor beneficiaries. Any individual while serving honorably on federal active duty, state active duty, or national guard duty, as defined in Iowa Code section 29A.1, applying for licensure as a fire protection system contractor shall apply for licensure following 661—Chapter 278.

ITEM 7. Amend **661—Chapter 276**, title, as follows:

LICENSING OF FIRE PROTECTION SYSTEM ~~INSTALLERS AND MAINTENANCE WORKERS~~ TECHNICIANS

ITEM 8. Amend rules 661—276.1(100D) to 661—276.3(100D) as follows:

661—276.1(100D) Establishment of program. There is established within the state fire marshal division a fire protection system installer and maintenance worker licensing program called the fire protection system technician license. The program is established pursuant to ~~2009~~ Iowa Code ~~Supplement~~ chapter 100D ~~as amended by 2010 Iowa Acts, Senate File 2355~~.

276.1(1) *Licensing required.* A person shall not act as a fire protection system installer and maintenance worker without being currently licensed as a fire protection system ~~installer and maintenance worker~~ technician by the state fire marshal, except for the following ~~as provided in 2009 Iowa Code Supplement section 100D.11 as amended by 2010 Iowa Acts, Senate File 2355~~:

a. A person licensed as a professional engineer pursuant to Iowa Code chapter 542B who is providing consultation or develops plans or other work concerning the installation or design of fire protection systems shall not be required to be licensed pursuant to this chapter.

b. A person whose work on fire protection systems is limited to routine maintenance shall not be required to be licensed pursuant to this chapter.

c. A person who is licensed as a plumber pursuant to Iowa Code chapter 105 and whose work is within the scope of that license shall not be required to be licensed pursuant to this chapter.

d. A person who is working as an apprentice fire protection system ~~installer and maintenance worker~~ technician under the direct supervision of a responsible managing employee or under the direct supervision of a licensed fire ~~sprinkler installer and maintenance worker~~ protection system technician

who is on site while the work is being performed shall not be required to be licensed pursuant to this chapter. For purposes of this rule, "direct supervision" means that the person supervising the person performing the work shall be on the job site while the work being supervised is performed.

e. A person who demolishes fire protection system components shall not be required to be licensed pursuant to this chapter when the work involves the demolition of a complete fire protection system or if the work results in placing a fire protection ~~system's being placed~~ system out of service. If a fire protection system has been placed out of service, work required to place it into service must be performed by a person licensed to perform such work pursuant to this chapter. A person who demolishes a fire protection system or components thereof shall comply with any local ordinance, statute or administrative rule which requires notification to a local fire authority or the state fire marshal.

f. A person who is a responsible managing employee of a fire extinguishing system contractor ~~certified~~ licensed pursuant to Iowa Code chapter 100C shall not be required to be licensed pursuant to this chapter, provided that the work performed which is subject to the provisions of this chapter is within the scope of the endorsement or endorsements of the ~~certification~~ licensure of the ~~certified~~ licensed contractor employing the responsible managing employee.

276.1(2) *Endorsement.* Any person acting as a fire protection system installer and maintenance worker shall do so only in relation to systems and work covered by the endorsements on the person's license. The license of each ~~installer and maintenance worker~~ technician shall carry an endorsement for one or more of the following:

a. Automatic sprinkler system installation ~~and maintenance;~~.

b. Special hazards ~~fire suppression~~ system installation ~~and maintenance;~~.

c. ~~Installation of preengineered~~ Preengineered dry chemical or wet agent fire protection systems~~;~~ installation.

d. ~~Maintenance of preengineered dry chemical or wet agent fire protection systems;~~ Preengineered water-based fire protection systems in one- and two-family dwellings installation.

e. ~~Installation of preengineered water-based fire protection systems in one- and two-family dwellings;~~ Automatic sprinkler system maintenance inspection.

f. ~~Maintenance of preengineered water-based fire protection systems in one- and two-family dwellings;~~ Special hazards system maintenance inspection.

g. ~~Any combination thereof~~ Preengineered dry chemical or wet agent fire protection systems maintenance inspection.

h. Preengineered water-based fire protection systems in one- and two-family dwellings maintenance inspection, or

i. Fire protection technician trainee.

276.1(3) *Length of licensure.* Licensure shall normally be for two years and shall expire on ~~December~~ March 31 of the second year ~~following the issuance of the license~~ after the license has been issued. A license which is effective on a date other than ~~January~~ April 1 shall be effective on the date on which the license is issued and shall expire ~~on December 31 of the year following the year in~~ the next March, after one year has passed from the date on which the license ~~is~~ was issued. ~~The fee for licenses issued for less than a full two-year period shall be prorated on the basis of the number of quarters for which the license shall be in effect.~~ A technician trainee license may be renewed once and a person may work as a technician trainee for a maximum of four years.

EXCEPTION: Any license ~~issued before January 1, 2011, shall expire on December 31, 2012~~ currently issued with an expiration date of December 31 shall automatically be extended to expire the following March 31 without first requiring prior application for renewal or additional fees.

276.1(4) *Inquiries.* Inquiries regarding the fire protection system ~~installer and maintenance worker~~ technician licensing program may be addressed to:

~~Fire Protection System Installer and Maintenance Worker Licensing Program~~
State Fire Marshal Division
Iowa Department of Public Safety
Attn: SFM Licensing Administration
215 East 7th Street

Des Moines, Iowa 50319

Inquiries may be addressed by electronic mail to ~~fesccp@dps.state.ia.us; by telephone to (515)725-6145; or by facsimile to (515)725-6172~~ sfmlicense@dps.state.ia.us or by the United States Postal Service.

661—276.2(100D) Definitions. The following definitions apply to rules 661—276.1(100D) through ~~661—276.6(100D)~~ 661—276.8(100D):

"Aerosol fire extinguishing system" means a system that uses a combination of microparticles and gaseous matter to flood the protected area. The particles are in a vapor state until discharged from the device. On release, a chain reaction produces solid particles and gaseous matter to suppress the fire.

"Apprentice fire protection system installer and maintenance worker" means a person, other than a fire protection system technician trainee, who is registered in an apprenticeship program approved by the United States Department of Labor and who is engaged in learning the fire protection system industry trade under the direct supervision of a responsible managing employee of a ~~certified~~ licensed fire ~~extinguishing~~ protection system contractor or licensed fire protection system ~~installer and maintenance worker~~ technician.

"Automatic fire extinguishing system" means a system of devices and equipment that automatically detects a fire and discharges an approved fire extinguishing agent onto or in the area of a fire and includes automatic sprinkler systems, carbon dioxide extinguishing systems, deluge systems, automatic dry-chemical extinguishing systems, foam extinguishing systems, halogenated extinguishing systems, aerosol systems, hybrid-inert water mist systems, or other equivalent fire extinguishing technologies recognized by the fire extinguishing system contractors advisory board.

"Automatic sprinkler system" means an integrated fire protection sprinkler system usually activated by heat from a fire designed in accordance with fire protection engineering standards and includes a suitable water supply. The portion of the system above the ground is a network of specially sized or hydraulically designed piping installed in a structure or area, generally overhead, and to which automatic sprinklers are connected in a systematic pattern.

"Carbon dioxide extinguishing system" means a system supplying carbon dioxide from a pressurized vessel through fixed pipes and nozzles and includes a manual or automatic actuating mechanism.

"Clean agent" means an electrically nonconducting, volatile, or gaseous fire extinguishant that does not leave a residue upon evaporation.

"Deluge system" means a sprinkler system employing open sprinklers attached to a piping system connected to a water supply through a valve that is opened by the operation of a detection system installed in the same area as the sprinklers.

"Department" means the department of public safety.

"Dry chemical" means a powder composed of very small particles, usually sodium bicarbonate-, potassium bicarbonate-, or ammonium phosphate-based, with added particulate material supplemented by special treatment to provide resistance to packing, resistance to moisture absorption (caking), and the proper flow capabilities.

"Dry pipe sprinkler system" means an extinguishing system employing automatic sprinklers that are attached to a piping system containing air or nitrogen under pressure, the release of which (as from the opening of a sprinkler) permits the water pressure to open a valve known as a dry pipe valve, which allows the water to flow into the piping system and out the opened sprinklers.

"Fire extinguishing system contractor," "fire protection system contractor," or *"contractor"* means a person(s) engaging in or representing oneself to the public as engaging in the activity or business of layout, installation, repair, service, alteration, addition, testing, maintenance, or maintenance inspection of automatic fire extinguishing systems in this state, as defined in Iowa Code section 100C.1, and who is ~~certified~~ licensed pursuant to Iowa Code chapter 100C.

"Fire protection system" means a sprinkler, standpipe, hose system, special hazard system, dry system, foam system, or any water-based fire protection system, whether engineered or preengineered and whether manually or automatically activated, used for fire protection purposes which may include an integrated system of underground and overhead piping and which may be connected to a water source.

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"Fire protection system installation" means to set up or establish a fire protection system for use in an indicated space.

"Fire protection system installer and maintenance worker" or *"technician"* means a person who, having the necessary qualifications, training, experience, and technical knowledge, conducts fire protection system installation and maintenance and who is licensed by the department to install or maintain the types of fire protection systems endorsed on the person's fire protection system technician license. A fire protection technician shall be an employee of a fire protection system contractor or, if employed by anyone other than a fire protection system contractor, shall perform work requiring licensing as a fire protection system technician only on property owned or occupied by such employer and may obtain a license if the employer is not a licensed contractor.

"Fire protection system maintenance" means to provide repairs, including all inspections and tests, required to keep a fire protection system and its component parts in an operative condition at all times and the replacement of the system or its component parts when they become undependable or inoperable.

"Fire protection system technician trainee" means a person who is engaged in learning the fire protection system industry trade under the direct supervision of a responsible managing employee or a licensed fire protection system technician who is not a trainee. "Fire protection system technician trainee" does not mean a person who is an apprentice fire protection system installer and maintenance worker.

"Foam extinguishing system" means a special system discharging foam made from concentrates, either mechanically or chemically, over the area to be protected.

"Halogenated extinguishing system" means a fire extinguishing system using one or more atoms of an element from the halogen chemical series of fluorine, chlorine, bromine, and iodine.

"Hybrid-inert water mist system" means a system that combine the benefits of inert gas systems and water mist systems to extinguish fires. These systems provide both extinguishment and cooling to prevent reignition utilizing nontoxic, non-ozone-depleting hybrid media.

"Layout" means drawings, calculations and component specifications to achieve the specified system design installation. "Layout" does not include design.

"Listed" means equipment, materials, or services included in a list published by a nationally recognized independent testing organization concerned with evaluation of products or services that maintains periodic inspection of the production of listed equipment or materials or periodic evaluation of services and whose listing states that either the equipment, material, or service meets appropriate designated standards or has been tested and found suitable for a specified purpose.

"Offense directly relates" refers to either of the following:

1. The actions taken in furtherance of an offense are actions customarily performed within the scope of practice of a licensed profession.

2. The circumstances under which an offense was committed are circumstances customary to a licensed profession.

"Preengineered dry chemical or wet agent fire suppression system" means any system having predetermined flow rates, nozzle pressures and limited quantities of either agent. These systems have specific pipe sizes, maximum and minimum pipe lengths, flexible hose specifications, number of fittings and number and types of nozzles prescribed by a nationally recognized testing laboratory. The hazards against which these systems protect are specifically limited by the testing laboratory as to the type and size based upon actual fire tests. Limitations on hazards that can be protected against by these systems are contained in the manufacturer's installation manual, which is referenced as part of the listing.

"Preengineered fire protection system" means a fire protection system that has a predetermined flow rate, nozzle pressure, and quantity of extinguishing agent.

"Preengineered water-based fire protection system" means a packaged, water-based sprinkler system including all components connected to a water supply and designed to be installed according to pretested limitations.

"Responsible managing employee" means a person who is an owner, partner, officer, or manager employed full-time by a fire extinguishing system contractor and who meets the requirements for a responsible managing employee established in Iowa Code chapter 100C and 661—Chapter 275.

"Routine maintenance" means the repair or replacement of existing fire protection system components of the same size and type, for which no changes in configuration are made. "Routine maintenance" does not mean any new installation or any expansion or extension of any existing fire protection system, nor does it mean inspection and testing.

"Special hazards system" means a fire extinguishing system utilizing fire detection and control methods to release an extinguishing agent, other than water connected to a dedicated fire protection water supply.

~~*"Temporary license"* means a license issued to a fire protection system installer and maintenance worker who is licensed or certified in another state and who will perform work in Iowa only within areas covered by a disaster emergency proclamation issued by the governor pursuant to Iowa Code section 29C.6.~~

~~*"Trainee"* means a person who is engaged in learning the fire protection system industry trade under the direct supervision of a responsible managing employee or a licensed fire protection system installer and maintenance worker who is not a trainee. "Trainee" does not mean a person who is an apprentice fire protection system installer and maintenance worker.~~

"Wet agent" or *"wet chemical"* means an aqueous solution of organic or inorganic salts or a combination thereof that forms an extinguishing agent.

661—276.3(100D) Licensing requirements. A fire protection system installer and maintenance worker shall meet all of the following requirements in order to receive a license from the state fire marshal and shall continue to meet all requirements throughout the period of licensure. A licensee shall notify the state fire marshal as established in subrule 276.1(4), in writing ~~on a form designated by the fire marshal~~, within 30 calendar days if the licensee fails to meet any requirement for licensure.

~~**276.3(1)** *Liability insurance.* Each licensee, other than a trainee, shall maintain general and complete operations liability insurance covering any work that the licensee is authorized to perform pursuant to any endorsements on the license in the following amounts: $500,000 per person, $1,000,000 per occurrence, and $1,000,000 property damage.~~

~~*a.* The carrier of any insurance coverage maintained to meet this requirement shall notify the fire marshal 30 days prior to the effective date of cancellation or reduction of the coverage.~~

~~*b.* The licensee shall cease work immediately if the insurance coverage required by this subrule is no longer in force and other insurance coverage meeting the requirements of this subrule is not in force. A licensee shall not initiate any work which requires licensure pursuant to this chapter or to 2009 Iowa Code Supplement chapter 100D as amended by 2010 Iowa Acts, Senate File 2355, which cannot reasonably be expected to be completed prior to the effective date of the cancellation of the insurance coverage required by this subrule and of which the licensee has received notice, unless new insurance coverage meeting the requirements of this subrule has been obtained and will be in force upon cancellation of the prior coverage.~~

~~EXCEPTION: A licensee is not required to maintain insurance coverage provided that the licensee's employer maintains insurance coverage equivalent to the requirements of this subrule.~~

~~**276.3(2)**~~ **276.3(1)** *Compliance.* Each licensee shall maintain compliance with all other applicable provisions of law related to operation in the state of Iowa and in any political subdivision in which the licensee is performing work.

~~**276.3(3)**~~ **276.3(2)** *Training ~~and experience~~ requirements.* An applicant for a license shall meet ~~the following training and experience requirements~~ one of the requirements for the following endorsements:

a. ~~For endorsement for automatic~~ Automatic sprinkler system installation ~~and maintenance, the applicant shall show evidence of the following~~:

~~(1) Satisfactory completion of an apprenticeship program in fire sprinkler installation and maintenance approved by the United States Department of Labor, including four years of employment as an apprentice fire protection system installer and maintenance worker, and~~

~~(2)~~ (1) ~~A passing score on either the United Association Star~~ Current certification by the National Inspection Testing and Certification Corporation (NITC) in the STAR Fire ~~Sprinkler~~ Sprinklerfitting

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Mastery ~~Exam~~ Examination, or ~~on another examination administered by a nationally recognized third-party testing organization and approved as equivalent by the state fire marshal.~~

~~EXCEPTION: Prior to August 1, 2012, an applicant who was employed as a fire protection system installer as of July 1, 2008, may receive endorsement for automatic sprinkler system installation and maintenance upon submission of evidence of completion of 8500 hours of employment as a fire protection system installer and maintenance worker and any of the following:~~

~~1. Satisfactory completion of an apprenticeship program in fire sprinkler installation and maintenance of four or more years in duration, approved by the United States Department of Labor.~~

~~2. Passing the United Association Star Fire Sprinkler Mastery Exam or another examination administered by a nationally recognized third-party testing organization and approved as equivalent by the state fire marshal.~~

~~3.~~ (2) ~~Certification~~ Current certification by the National Institute for Certification in Engineering Technologies (NICET) at level I or above in ~~Automatic Sprinkler System Layout at Level I~~ water-based system layout, or ~~another form of certification or testing administered by a nationally recognized organization and approved as equivalent by the state fire marshal.An applicant for licensure or the applicant's employer may request approval from the state fire marshal of a form of certification or testing as equivalent to that required by this paragraph by contacting the program as indicated in subrule 276.1(4) and following the instructions given to request such approval. For any training which commences on or after January 1, 2011, or testing which occurs on or after July 1, 2011, such approval shall be obtained in advance.~~

(3) Current certification by the National Institute for Certification in Engineering Technologies (NICET) at level I or above in inspection and testing of water-based systems, or

(4) Satisfactory completion of an applicable training or testing program that has been approved by the state fire marshal.

b. ~~For endorsement for special~~ Special hazards ~~fire protection~~ system installation ~~and maintenance, the applicant shall show evidence of the following~~:

~~(1) Satisfactory completion of an apprenticeship program in installation and maintenance of special hazards fire protection systems approved by the United States Department of Labor, and~~

~~(2)~~ (1) ~~Certification~~ Current certification by the National Institute for Certification in Engineering Technologies (NICET) at level I or above in ~~Special Hazards Protection Systems at Level I~~ special hazards systems, or ~~another form of certification or testing by a nationally recognized organization approved as equivalent by the state fire marshal. An applicant for licensure or the applicant's employer may request approval from the state fire marshal of a form of certification or testing as equivalent to that required by this subparagraph by contacting the program as indicated in subrule 276.1(4) and following the instructions given to request such approval. For any training which commences on or after January 1, 2011, or testing which occurs on or after July 1, 2011, such approval shall be obtained in advance.~~

~~EXCEPTION 1: If the state fire marshal determines that no appropriate apprenticeship program is readily available, the fire marshal may allow the substitution of documentation of 8500 hours or more of employment in installation and maintenance of special hazards systems in lieu of meeting the apprenticeship requirement. Credit for such work experience obtained on or after October 1, 2010, shall be awarded only for work performed as an apprentice fire protection system installer and maintenance worker or as a licensed fire protection system installer and maintenance worker trainee. An applicant for a license, a certified contractor, or another employer of an applicant for a license may request determination by the state fire marshal that no appropriate apprenticeship is readily available to the applicant. In order to make such a request, the person making the request shall contact the program as specified in subrule 276.1(4) for instructions regarding information to be submitted.~~

~~EXCEPTION 2: Prior to August 1, 2012, an applicant who was employed as a fire protection system installer as of July 1, 2008, may receive endorsement for special hazards fire protection system installation and maintenance upon submission of evidence of completion of 8500 hours of employment as a fire protection system installer and maintenance worker and either of the following:~~

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~~1. Satisfactory completion of an apprenticeship program in installation and maintenance of special hazards fire protection systems of four or more years in duration, approved by the United States Department of Labor.~~

~~2. Certification by the National Institute for Certification in Engineering Technologies in Special Hazards Systems Installation and Maintenance at Level I, or another form of certification or testing administered by a nationally recognized organization and approved as equivalent by the state fire marshal. An applicant for licensure or the applicant's employer may request approval from the state fire marshal of a form of certification or testing as equivalent to that required by this paragraph by contacting the program as indicated in subrule 276.1(4) and following the instructions given to request such approval. For any training which commences on or after January 1, 2011, or testing which occurs on or after July 1, 2011, such approval shall be obtained in advance.~~

(2) Satisfactory completion of an applicable training or testing program that has been approved by the state fire marshal.

c. ~~For endorsement for installation or maintenance of preengineered~~ Preengineered dry chemical or wet agent fire protection ~~systems, the applicant shall show evidence of the following~~ system installation:

~~(1) To be endorsed as a preengineered kitchen fire extinguishing system installer, the applicant shall have successfully completed training and an examination verified by a preengineered system manufacturer, an agent of a preengineered system manufacturer, or an organization that is approved by the state fire marshal. Completion of training and examination which would qualify the applicant for equivalent endorsement as a responsible managing employee of a certified fire extinguishing system contractor shall be deemed to meet the requirement of this subparagraph. An organization which wishes to be approved pursuant to this subparagraph shall contact the program as specified in subrule 276.1(4) and shall follow the instructions received from the program. For any training which commences on or after January 1, 2011, or testing which occurs on or after July 1, 2011, such approval shall be obtained in advance.~~

~~(2) To be endorsed as a preengineered kitchen fire extinguishing system maintenance worker, the applicant shall have successfully completed training by the applicant's employer or the system's manufacturer and passed a written or online examination for preengineered kitchen fire extinguishing system maintenance that is approved by the state fire marshal. Completion of training and examination which would qualify the applicant for equivalent endorsement as a responsible managing employee of a certified fire extinguishing system contractor shall be deemed to meet the requirement of this subparagraph. An organization which wishes to be approved pursuant to this subparagraph shall contact the program as specified in subrule 276.1(4) and shall follow the instructions received from the program. For any testing which occurs on or after January 1, 2011, such approval shall be obtained in advance.~~

~~(3) To be endorsed as a preengineered industrial fire extinguishing system installer, the applicant shall possess a training and examination certification from a preengineered system manufacturer, an agent of a preengineered system manufacturer, or an organization that is approved by the state fire marshal. Completion of training and examination which would qualify the applicant for equivalent endorsement as a responsible managing employee of a certified fire extinguishing system contractor shall be deemed to meet the requirement of this subparagraph. An organization which wishes to be approved pursuant to this subparagraph shall contact the program as specified in subrule 276.1(4) and shall follow the instructions received from the program. For any training which commences on or after January 1, 2011, or testing which occurs on or after July 1, 2011, such approval shall be obtained in advance.~~

~~(4) To be endorsed as a preengineered industrial fire extinguishing system maintenance worker, the applicant shall have been trained by the applicant's employer and shall have passed a written or online examination for preengineered industrial fire extinguishing system maintenance that is approved by the state fire marshal. Completion of training and examination which would qualify the applicant for equivalent endorsement as a responsible managing employee of a certified fire extinguishing system contractor shall be deemed to meet the requirement of this subparagraph. An organization which wishes to be approved pursuant to this subparagraph shall contact the program as specified in subrule 276.1(4) and shall follow the instructions received from the program. For any training which commences on or~~

~~after January 1, 2011, or testing which occurs on or after July 1, 2011, such approval shall be obtained in advance.~~

(1) Current certification by the National Institute for Certification in Engineering Technologies (NICET) at level I or above in special hazard systems, or

(2) Current certification by the National Association of Fire Equipment Distributors (NAFED) in preengineered kitchen fire extinguishing systems, preengineered industrial fire extinguishing systems, or both, or

(3) Satisfactory completion of any training required by the manufacturer for the installation of any system the technician installs, or

(4) Satisfactory completion of an applicable training or testing program that has been approved by the state fire marshal.

d. ~~For endorsement for installation of preengineered~~ Preengineered water-based fire protection systems in one- and two-family dwellings~~, the applicant shall show evidence of satisfactory completion of any training required by the manufacturer for installation of any system that the applicant will install. Completion of training and examination which would qualify the person for equivalent endorsement as a responsible managing employee of a certified fire extinguishing system contractor shall be deemed to meet the requirement of this paragraph.~~ installation:

(1) Current certification by the National Institute for Certification in Engineering Technologies (NICET) at level I or above in special hazard systems, or

(2) Satisfactory completion of any training required by the manufacturer for the installation of any system the technician installs, or

(3) Satisfactory completion of an applicable training or testing program that has been approved by the state fire marshal.

e. Automatic sprinkler system maintenance inspection:

(1) Current certification by the National Inspection and Testing Certification Corporation (NITC) in the STAR Fire Sprinklerfitting Mastery Examination, or

(2) Current certification by the National Institute for Certification in Engineering Technologies (NICET) at level I or above in water-based systems layout, or

(3) Current certification by the National Institute for Certification in Engineering Technologies (NICET) at level I or above in inspection and testing of water-based systems, or

(4) Satisfactory completion of an applicable training or testing program that has been approved by the state fire marshal.

f. Special hazards system maintenance inspection:

(1) Current certification by the National Institute for Certification in Engineering Technologies (NICET) at level I or above in special hazard systems, or

(2) Satisfactory completion of an applicable training or testing program that has been approved by the state fire marshal.

g. Preengineered dry chemical or wet agent fire protection system maintenance inspection:

(1) Current certification by the National Institute for Certification in Engineering Technologies (NICET) at level I or above in special hazard systems, or

(2) Current certification by the National Association of Fire Equipment Distributors (NAFED) in preengineered kitchen fire extinguishing systems, preengineered industrial fire extinguishing systems, or both, or

(3) Satisfactory completion of any training required by the manufacturer for maintenance and inspection of any system the technician inspects, or

(4) Satisfactory completion of an applicable training or testing program that has been approved by the state fire marshal.

h. Preengineered water-based fire protection systems in one- and two-family dwellings installation:

(1) Current certification by the National Institute for Certification in Engineering Technologies (NICET) at level I or above in special hazard systems, or

(2) Satisfactory completion of any training required by the manufacturer for maintenance and inspection of any system the technician inspects, or

(3) Satisfactory completion of an applicable training or testing program that has been approved by the state fire marshal.

i. Fire protection system technician trainee, submission of a completed application no later than the first day of employment. A fire protection system technician trainee may perform work which requires licensure under this chapter only under the direct supervision of a licensed fire protection system technician or responsible managing employee whose license contains one or more endorsements as provided in subrule 275.1(2) or 276.1(2), and that work must be within the scope of work authorized by the endorsements held by the supervising fire protection system technician or responsible managing employee. At least one licensed fire protection system technician or responsible managing employee must be present for every three apprentice fire protection system installers and maintenance workers or fire protection system technician trainees performing work related to fire protection systems.

~~**276.3(4)**~~ **276.3(3)** *Continuing education.* A license may be renewed only if the licensee has completed ~~16 or more hours of continuing education in subjects related to the license and its endorsements during the two years preceding the date on which the new license will become effective if it is issued~~ recertification of the applicable requirements relative to the endorsement for which the license is being renewed. ~~The continuing education must consist of courses approved by the fire marshal and must have been completed by the licensee during the two years prior to the effective date of the renewal. Any person or organization which wishes to obtain approval for continuing education courses to satisfy the provisions of this subrule shall contact the program as specified in subrule 276.1(4) and shall follow the instructions received from the program. After January 1, 2011, prior approval must be obtained before a licensee may take a course for which credit toward the requirements of this subrule will be sought.~~

~~**276.3(5)** *Temporary license requirements.* A person may be issued a temporary license upon submission of an application to the state fire marshal with proof of equivalent licensure or certification in another state, accompanied by the applicable fee. The state fire marshal may require the submission of any documentation of licensure or certification in another state that the state fire marshal deems necessary. A temporary license may be used only in an area which is or has been within the past 180 days subject to a disaster emergency proclamation issued by the governor pursuant to Iowa Code section 29C.6. A temporary license shall be in effect for 90 days from the date of issuance and may be renewed once for an additional 90 days.~~

276.3(4) *Training or testing approval.* In any case in which training or testing that is offered to satisfy the requirements of this rule is required to be approved by the state fire marshal, such approval is required prior to acceptance of the training or testing to meet licensure requirements. Approval by the state fire marshal of any training or testing to meet these requirements may be sought by the individual, firm, or organization providing the testing or training or initiated by the state fire marshal. Any individual, firm, or organization seeking to obtain such approval shall apply to the state fire marshal no later than July 1, 2021, and no later than July 1 every two years thereafter. Program information and any other documentation requested by the state fire marshal for consideration shall be submitted as specified in subrule 276.1(4). Training and testing approved by the state fire marshal will be listed on the state fire marshal's licensing website.

276.3(5) *License applicability.* Work performed by a technician subject to these rules shall be limited to areas of competence indicated by the specific certification(s) or other training requirements met by the applicant. Work performed in the state shall not begin prior to:

a. Receipt of a new or renewed license issued by the state fire marshal to the applicant, or

b. Receipt of written approval to perform work prior to issuance of a new or renewed license from the state fire marshal to the applicant.

276.3(6) *Portable fire extinguisher requirements.* Nothing in this rule shall be interpreted to conflict with or diminish any requirement for training or certification for anyone installing or servicing a fire extinguishing system or portable fire extinguisher set forth in any rule of the state fire marshal or local fire ordinance or standard adopted by reference therein.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

ITEM 9. Renumber rules **661—276.4(100D)** to **661—276.6(100D)** as **661—276.5(100D)** to **661—276.7(100D)**.

ITEM 10. Adopt the following **new** rule 661—276.4(272C):

661—276.4(272C) Licensure of persons licensed in other jurisdictions.

276.4(1) For the purposes of this rule, "issuing jurisdiction" means the duly constituted authority in another state that has issued a professional license, certificate, or registration to a person.

276.4(2) Notwithstanding any other provision of law, a fire protection system technician license shall be issued without an examination to a person who establishes residency in this state or to a person who is married to an active duty member of the military forces of the United States and who is accompanying the member on an official permanent change of station to a military installation located in this state if all of the following conditions are met:

a. The person is currently licensed by at least one other issuing jurisdiction as a fire protection system technician with a substantially similar scope of practice and the license is in good standing in all issuing jurisdictions in which the person holds a license.

b. The person has been licensed by another issuing jurisdiction for at least one year.

c. The person was licensed by the issuing jurisdiction, the issuing jurisdiction imposed minimum educational requirements and, if applicable, work experience requirements, and the issuing jurisdiction verifies that the person met those requirements in order to be licensed in that issuing jurisdiction.

d. The person previously passed an examination required by the other issuing jurisdiction for licensure, if applicable.

e. The person has not had a license revoked and has not voluntarily surrendered a license in any other issuing jurisdiction or country while under investigation for unprofessional conduct.

f. The person has not had discipline imposed by any other regulating entity in this state or another issuing jurisdiction or country. If another jurisdiction has taken disciplinary action against the person, the state fire marshal shall determine if the cause for the action was corrected and the matter resolved. If the state fire marshal determines that the matter has not been resolved by the jurisdiction imposing discipline, the state fire marshal shall not issue or deny a license to the person until the matter is resolved.

g. The person does not have a complaint, allegation, or investigation pending before any regulating entity in another issuing jurisdiction or country that relates to unprofessional conduct. If the person has any complaints, allegations, or investigations pending, the state fire marshal shall not issue or deny a license to the person until the complaint, allegation, or investigation is resolved.

h. The person pays all applicable fees.

i. The person does not have a criminal history that would prevent the person from holding the fire protection system technician license applied for in this state.

276.4(3) A person licensed pursuant to this rule is subject to the laws regulating the person's practice in this state and is subject to the jurisdiction of the state fire marshal.

276.4(4) This rule does not apply to any of the following:

a. The ability of the state fire marshal to require the submission of fingerprints or completion of a criminal history check.

b. The ability of the state fire marshal to require a person to take and pass an examination specific to the laws of this state prior to issuing a license. If the state fire marshal requires an application to take and pass an examination specific to the laws of this state, the state fire marshal shall issue an applicant a temporary license that is valid for a period of three months and may be renewed once for an additional period of three months.

276.4(5) Except as provided in subrule 276.4(2), a person applying for a license in this state who relocates to this state from another state that did not require a license to practice as a fire protection system technician may be considered to have met any education, training, or work experience requirements imposed by the state fire marshal in this state if the person has three or more years of related work experience with a substantially similar scope of practice within the four years preceding the date of application as determined by the state fire marshal.

276.4(6) A person applying for a license in this state under the requirements of this subrule shall submit the person's request in writing to the state fire marshal as established in subrule 276.1(4) providing proof of residency in this state and documentation to verify all conditions are met under this subrule.

ITEM 11. Amend renumbered rules 661—276.5(100D) to 661—276.7(100D) as follows:

661—276.5(100D) Application and fees.

276.5(1) *Application.* Any person seeking licensure as a fire protection system ~~installer and maintenance worker~~ technician shall submit a completed application form to the state fire marshal. The application shall be filed no later than 30 days prior to the date ~~on which licensure is required~~ of beginning work in this state or the date on which an existing license expires. An application form may be obtained from the state fire marshal or from the ~~Web site of the fire protection system installer and maintenance worker licensing program~~ state fire marshal's website. The application form shall be submitted with all required attachments in subrule 276.5(5) and the required license fee established in subrule ~~276.4(2)~~ 276.5(2). An application shall not be considered complete unless all required information is submitted, including required attachments and fees, and shall not be processed until it is complete.

NOTE: The ~~Web site~~ website for the fire protection system ~~installer and maintenance worker~~ technician licensing program is ~~http://www.dps.state.ia.us/fm/building/fesccp/index.shtml~~ dps.iowa.gov/divisions/state-fire-marshal/licensing/fire-protection.

276.5(2) *License fee.*

a. The fee for a permanent or provisional license, except for a trainee license, shall be $200. ~~If an application is denied, all except $25 of the fee may be refunded if the applicant applies to the fire marshal for a refund. No refund of the license fee shall be made if the license is revoked or if the denial of the license is based on the applicant's knowingly including false or misleading information on the application.~~ If an application for a license provides for more than one endorsement as provided in subrule 276.1(2), there shall be an additional fee of $25 for each endorsement beyond the first.

b. The fee for a fire protection system technician trainee license shall be $100.

~~*c.* The fee for a temporary license shall be $50. A temporary license may be renewed once; the renewal fee shall be $50.~~

The state fire marshal shall waive any fee charged to an applicant for a license if the applicant's household income does not exceed 200 percent of the federal poverty income guidelines and the applicant is applying for the license for the first time in this state.

276.5(3) *Payment.* The license fee shall be submitted electronically or by draft, check, or money order in the applicable amount payable to the Iowa ~~Department of Public Safety~~ State Fire Marshal Division. Draft, check, or money order shall be addressed to the state fire marshal as established in subrule 276.1(4). Payment cannot be made in cash. ~~The memo portion of the check should have the following notation: "Fire Protection System Installer and Maintenance Worker Licensing Program."~~

276.5(4) *Amended license.*

a. The fee for issuance of an amended license is ~~$25~~ the difference between the original license fee paid and changes in endorsement(s), if applicable. The fee shall be submitted with a request for an amended license. A licensee shall request and the state fire marshal shall issue an amended license for any of the following reasons, and a fee does not apply:

(1) A change in employer~~;~~. A licensee may only transfer the licensee's technician license to another employer if the licensee paid the license fee at the time of original application. If the licensee's previous employer paid the license fee, the licensee must reapply for a new license under the licensee's new employer and pay the license fee.

~~(2) A change in insurance coverage; or~~

~~(3)~~ (2) A change in any other material information included in or with the initial or renewal application. A change of address is a material change. However, if the request for an amended license is solely for a change of business address, the former address of the business is in an area subject to a disaster emergency proclamation issued by the governor pursuant to Iowa Code section 29C.6, and the relocation occurs as a result of flooding or storm damage or other conditions which form a basis for the

issuance of the disaster emergency proclamation, the fee shall not apply, although an amended license shall be issued.

b. Other changes in the information required in the application form, including renewal of insurance coverage with a new expiration date, shall be reported to the state fire marshal but shall not require issuance of an amended license or payment of the amended license fee.

276.5(5) *Attachments.* Required attachments to the application for a license include, but are not limited to, the following:

a. Documentation verifying that the applicant has ~~in force the insurance coverage required by subrule 276.3(1)~~ met the applicable licensure requirements. ~~The documentation shall include an acknowledgment that the applicant's or employer's insurance coverage extends to any work performed by the licensee within the scope of licensure pursuant to this chapter. The documentation may consist of a letter from the insurance carrier, a copy of the insurance certificate with an endorsement showing the required information, or a signed statement from the applicant's employer attesting that the employer has insurance coverage in effect equivalent to the coverage required by subrule 276.3(1).~~

b. ~~If the application requests licensure based on work experience, the applicant shall attach a notarized affidavit attesting that the applicant has the required experience.~~ Documentation of qualifying licensure in another issuing jurisdiction by providing the following:

(1) Proof of residency in this state.

(2) Proof all conditions are met as established in rule 661—276.4(100D).

1. Copy of a license from other issuing jurisdiction.

2. Evidence the applicant met issuing jurisdiction's educational requirements and, if applicable, work experience requirements.

3. Evidence the applicant passed the issuing jurisdiction's required examination, if applicable.

4. Evidence the applicant has not had a license revoked or voluntarily surrendered, had discipline imposed, or been under investigation by another issuing jurisdiction.

5. Evidence the applicant does not have a complaint, allegation, or investigation pending before any regulatory entity related to unprofessional conduct.

~~NOTE: An applicant may contact the fire protection system installer and maintenance worker licensing program for assistance with the wording of the affidavit.~~

661—276.6(100D) Complaints.

276.6(1) Complaints regarding the performance of any licensed fire protection system ~~installer and maintenance worker;~~ technician, failure of a licensee to meet any of the requirements established in ~~2009~~ Iowa Code ~~Supplement~~ chapter 100D ~~as amended by 2010 Iowa Acts, Senate File 2355,~~ or this chapter or any other provision of law~~;~~, or persons operating as fire protection system installers and maintenance workers without licensure may be filed with the state fire marshal. Complaints should be addressed as follows:

~~Fire Protection System Installer and Maintenance Worker Licensing Program~~
State Fire Marshal Division
Iowa Department of Public Safety
Attn: SFM Licensing Administration
215 East 7th Street
Des Moines, Iowa 50319

276.6(2) Complaints may be ~~submitted~~ addressed by electronic mail to ~~fsecep@dps.state.ia.us or by facsimile to (515)725-6172~~ sfmlicense@dps.state.ia.us or in writing by the United States Postal Service.

276.6(3) Complaints should be as specific as possible and shall clearly identify the licensee or other person against whom the complaint is filed. Complaints shall be submitted in writing. A complaint may be submitted anonymously, but if the name and contact information of the complainant are provided, the complainant will be notified of the disposition of the complaint.

661—276.7(100D) Denial, suspension, or revocation of licensure; civil penalties; appeals. If a licensee or person who performs work requiring a license violates any provision of these rules or any

other provision of law related to work requiring licensure pursuant to this chapter, the state fire marshal may deny, suspend or revoke a license or assess a civil penalty to a licensee or to a person who performs work requiring licensure pursuant to this chapter and who is not licensed.

276.7(1) *Denial.* The state fire marshal may deny an application for licensure:

a. If the applicant makes a false statement on the application form or in any other submission of information required for licensure. "False statement" means providing false information or failing to include material information, such as a previous criminal conviction or action taken by another jurisdiction, when requested on the application form or otherwise in the application process.

b. If the applicant fails to meet all of the requirements for licensure established in this chapter.

c. If the applicant is currently barred for cause from licensure equivalent to that provided for in this chapter in another jurisdiction.

d. If an applicant has previously been barred for cause from operating in another jurisdiction as a fire protection system installer and maintenance worker and if the basis of that action reflects upon the integrity of the applicant in operating as a fire protection system installer and maintenance worker. If an applicant is found to have been previously barred for cause from operating as a fire protection system installer and maintenance worker in another jurisdiction and is no longer barred from doing so, the state fire marshal shall evaluate the record of that action with regard to the likelihood that the applicant would operate with integrity as a licensee. If an applicant is denied licensure under this paragraph, the applicant shall be notified of the specific reasons for the denial.

e. ~~If the applicant has been convicted of a crime which reflects upon the integrity of the applicant in operating as a fire protection system installer and maintenance worker. If an applicant is found to have a criminal record, the fire marshal shall evaluate that record with regard to the likelihood that the applicant would operate with integrity as a licensee.~~ Conviction of a felony offense, if the offense directly relates to the profession or occupation of the licensee, in the courts of this state or another state, territory or country. "Conviction" as used in this subrule includes a conviction of an offense which if committed in this state would be a felony without regard to its designation elsewhere, and includes a finding or verdict of guilt made or returned in a criminal proceeding even if the adjudication of guilt is withheld or not entered. A certified copy of the final order or judgment of conviction or plea of guilty in this state or in another state constitutes conclusive evidence of the conviction. If an applicant is denied licensure under this paragraph, the applicant shall be notified of the specific reasons for the denial.

f. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the licensee's profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

g. Willful or repeated violations of the provisions of this chapter.

276.7(2) *Suspension.* A suspension of a license may be imposed by the state fire marshal for any violation of these rules or ~~2009~~ Iowa Code ~~Supplement~~ chapter 100D ~~as amended by 2010 Iowa Acts, Senate File 2355,~~ or for a failure to meet any legal requirement to operate as a fire protection system installer and maintenance worker in this state. Failure to provide any notice to the state fire marshal as required by these rules shall be grounds for suspension. An order of suspension shall specify the length of the suspension and shall specify that correction of all conditions which were a basis for the suspension is a condition of reinstatement of the license even after the period of the suspension.

276.7(3) *Revocation.*

a. A revocation is a termination of a license. A license may be revoked by the state fire marshal for repeated violations or for a violation which creates an imminent danger to the safety or health of individuals protected by a fire protection system incorrectly installed by a licensee or when information comes to the attention of the state fire marshal which, if known to the state fire marshal when the application was being considered, would have resulted in denial of the license.

b. A new application for a license from an applicant whose license has previously been revoked shall not be considered for a period of one year after the effective date of the revocation and, in any event, until every condition which was a basis for the revocation has been corrected. The state fire marshal may specify in the revocation order a period longer than one year before a new application for a license may be considered. When a new application for a license from a person whose license was previously revoked

is being considered, the applicant may be denied a license based upon the same information which was the basis for revocation even after any such period established by the state fire marshal has expired.

276.7(4) *Disqualifications for criminal convictions limited.*

a. Notwithstanding any other provision of law to the contrary, a person's conviction of a crime may be grounds for the denial, revocation, or suspension of a license only if an unreasonable risk to public safety exists because the offense directly relates to the duties and responsibilities of the profession and the state fire marshal does not grant an exception pursuant to paragraph 276.7(4)*"d."*

b. The state fire marshal shall provide a list of the specific convictions that may disqualify an applicant from receiving a license. Any such offense shall be an offense that directly relates to the duties and responsibilities of the profession.

c. The state fire marshal shall not deny an application for a license on the basis of an arrest that was not followed by a conviction or based on a finding that an applicant lacks good character, suffers from moral turpitude, or on another similar basis.

d. The state fire marshal shall grant an exception to an applicant who would otherwise be denied a license due to a criminal conviction if the following factors establish by clear and convincing evidence that the applicant is rehabilitated and an appropriate candidate for licensure:

(1) The nature and seriousness of the crime for which the applicant was convicted.

(2) The amount of time that has passed since the commission of the crime. There is a rebuttable presumption that an applicant is rehabilitated and an appropriate candidate for licensure five years after the date of the applicant's release from incarceration, provided that the applicant was not convicted of sexual abuse in violation of Iowa Code section 709.4, a sexually violent offense as defined in Iowa Code section 229A.2, dependent adult abuse in violation of Iowa Code section 235B.20, a forcible felony as defined in Iowa Code section 702.11, or domestic abuse assault in violation of Iowa Code section 708.2A, and the applicant has not been convicted of another crime after release from incarceration.

(3) The circumstances relative to the offense, including any aggravating and mitigating circumstances or social conditions surrounding the commission of the offense.

(4) The age of the applicant at the time the offense was committed.

(5) Any treatment undertaken by the applicant.

(6) Whether a certificate of employability has been issued to the applicant pursuant to Iowa Code section 906.19.

(7) Any letters of reference submitted on behalf of the applicant.

(8) All other relevant evidence of rehabilitation and present fitness of the applicant.

e. An applicant may petition the state fire marshal in writing as specified in subrule 276.1(4) for a determination as to whether the applicant's criminal record will prevent the applicant from receiving a license. The state fire marshal shall issue such a determination within 30 days of receiving the petition. The state fire marshal shall determine whether an applicant's criminal record will prevent the applicant from receiving a license while determining whether to deny an applicant's application on the basis of an applicant's criminal conviction. The state fire marshal may charge a fee to recoup the costs of such a determination, provided that such fee shall not exceed $25.

f. When the state fire marshal denies an applicant a license solely or partly because of the applicant's prior conviction of a crime, the state fire marshal shall notify the applicant in writing of all of the following:

(1) The grounds for the denial of disqualification.

(2) That the applicant has the right to a hearing to challenge the state fire marshal's decision.

(3) The earliest date the applicant may submit a new application.

(4) That evidence of rehabilitation of the applicant may be considered upon reapplication.

g. A determination by the state fire marshal that an applicant's criminal conviction is specifically listed as a disqualifying conviction and the offense directly relates to the duties and responsibilities of the applicant's profession must be documented in written findings for each factor specified in this subrule sufficient for a review by a court.

h. In any administrative or civil hearing authorized by this rule or Iowa Code chapter 17A, the state fire marshal shall carry the burden of proof on the question of whether the applicant's criminal offense directly relates to the duties and responsibilities of the profession for which the license is sought.

i. The state fire marshal may require an applicant with a criminal record to submit the applicant's complete criminal record detailing an applicant's offenses with an application. The state fire marshal may also require an applicant with a criminal record to submit a personal statement regarding whether each offense directly relates to the duties and performance of the applicant's occupation. For the purposes of this subrule, "complete criminal record" includes the complaint and judgment of conviction for each offense of which the applicant has been convicted.

~~276.7(4)~~ 276.7(5) *Civil penalties.* The state fire marshal may impose a civil penalty of up to $500 per day during which a violation has occurred and for every day until the violation is corrected. A civil penalty may be imposed in lieu of or in addition to a suspension or may be imposed in addition to a revocation. A civil penalty shall not be imposed in lieu of a revocation.

~~276.7(5)~~ 276.7(6) *Suspension or revocation for nonpayment of child support.* The following procedures shall apply to actions taken by the state fire marshal on a certificate of noncompliance received from the Iowa department of human services pursuant to Iowa Code chapter 252J:

a. The notice required by Iowa Code section 252J.8 shall be served upon the licensee by restricted certified mail, return receipt requested, or personal service in accordance with Iowa Rule of Civil Procedure 1.305. Alternatively, the licensee may accept service personally or through authorized counsel.

b. The effective date of revocation or suspension of a license, as specified in the notice required by Iowa Code section 252J.8, shall be 60 days following service upon the licensee.

c. Licensees shall keep the state fire marshal informed of all court actions and all child support recovery unit actions taken under or in connection with Iowa Code chapter 252J and shall provide the state fire marshal with copies, within ~~7~~ seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 252J.9, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the child support recovery unit.

d. All applicable fees for an application or reinstatement must be paid by the licensee before a license will be issued, renewed, or reinstated after the state fire marshal has denied the issuance or renewal of a license or has suspended or revoked a license pursuant to Iowa Code chapter 252J.

e. In the event the licensee files a timely district court action following service of a notice pursuant to Iowa Code sections 252J.8 and 252J.9, the state fire marshal shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the state fire marshal to proceed. For the purpose of determining the effective date of revocation or suspension of the license, the state fire marshal shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

f. Suspensions or revocations imposed pursuant to this subrule may not be appealed administratively to the state fire marshal or within the department of public safety.

NOTE: The procedures established in subrule ~~276.6(5)~~ 276.7(6) implement the requirements of Iowa Code chapter 252J. The provisions of Iowa Code chapter 252J establish mandatory requirements for an agency which administers a licensing program, such as the one established in this chapter, and provide that actions brought under these provisions are not subject to contested case procedures established in Iowa Code chapter 17A but must be appealed directly to district court.

~~276.7(6)~~ 276.7(7) *Suspension or revocation for nonpayment of debts owed state or local government.* The following procedures shall apply to actions taken by the state fire marshal on a certificate of noncompliance received from the Iowa department of revenue pursuant to Iowa Code chapter 272D:

a. The notice required by Iowa Code section 272D.3 shall be served upon the licensee by regular mail.

b. The effective date of revocation or suspension of a license, as specified in the notice required by Iowa Code section 272D.3, shall be 20 days following service upon the licensee.

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c. Licensees shall keep the state fire marshal informed of all court actions and centralized collection unit actions taken under or in connection with Iowa Code chapter 272D and shall provide the state fire marshal with copies, within ~~7~~ seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 272D.9, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the centralized collection unit.

d. All applicable fees for an application or reinstatement must be paid by the licensee before a license will be issued, renewed, or reinstated after the state fire marshal has denied the issuance or renewal of a license or has suspended or revoked a license pursuant to Iowa Code chapter 272D.

e. In the event the licensee files a timely district court action following service of a notice pursuant to Iowa Code section 272D.8, the state fire marshal shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the state fire marshal to proceed. For the purpose of determining the effective date of revocation or suspension of the license, the state fire marshal shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

f. Suspensions or revocations imposed pursuant to this subrule may not be appealed administratively to the state fire marshal or within the department of public safety.

NOTE: The procedures established in subrule ~~276.6(6)~~ 276.7(7) implement the requirements of Iowa Code chapter 272D. The provisions of Iowa Code chapter 272D establish mandatory requirements for an agency which administers a licensing program, such as the one established in this chapter, and provide that actions brought under these provisions are not subject to contested case procedures established in Iowa Code chapter 17A but must be appealed directly to district court.

~~276.7(7)~~ 276.7(8) *Appeals.* Any denial, suspension, or revocation of a license, or any civil penalty imposed upon a licensee or other person under this rule, other than one imposed pursuant to subrule ~~276.6(5)~~ 276.7(6) or ~~276.6(6)~~ 276.7(7), may be appealed by the licensee or other person within 14 days of receipt of the notice. Appeals of actions taken by the state fire marshal under this rule shall be to the commissioner of public safety and shall be treated as contested cases following the procedures established in rules 661—10.301(17A) through 661—10.332(17A).

ITEM 12. Adopt the following **new** rule 661—276.8(272D):

661—276.8(272D) Veterans, military service members, and certain survivor beneficiaries. Any individual while serving honorably on federal active duty, state active duty, or national guard duty, as defined in Iowa Code section 29A.1, applying for licensure as a fire protection system technician shall apply for licensure following 661—Chapter 278.

ITEM 13. Amend **661—Chapter 277**, title, as follows:

~~CERTIFICATION~~ LICENSING OF ALARM SYSTEM CONTRACTORS AND ~~INSTALLERS~~ TECHNICIANS

ITEM 14. Amend rules 661—277.1(100C) to 661—277.7(100C) as follows:

661—277.1(100C) Establishment of program. There ~~is~~ are established within the state fire marshal division ~~an~~ alarm system contractor and installer ~~certification program~~ licensing programs, called the alarm system contractor license and alarm system technician license. The ~~program is~~ programs are established pursuant to Iowa Code ~~Supplement~~ chapter 100C.

277.1(1) *~~Certification~~ Licensure required.*

~~*a.* Except as provided in paragraph 277.1(1)*"b,"* no~~ No person shall act as an alarm system contractor without being currently ~~certified~~ licensed as an alarm system contractor by the state fire marshal. ~~Except as provided in paragraph 277.1(1)*"b,"* no~~ No person shall act as an alarm system ~~installer~~ technician without being currently ~~certified~~ licensed by the state fire marshal as an alarm system contractor or alarm system ~~installer~~ technician unless the person is engaged in the installation of alarm system components, is currently licensed pursuant to Iowa Code ~~Supplement~~ chapter 103, and is exempt from requirements for ~~certification~~ licensure by the state fire marshal as an alarm system ~~installer~~ technician pursuant to Iowa Code ~~Supplement~~ chapter 103.

EXCEPTION: A person may pull cable for an alarm system under the direct supervision of a ~~certified~~ licensed contractor, ~~certified installer~~ licensed technician, or person licensed pursuant to Iowa Code ~~Supplement~~ chapter 103 who is working as ~~an installer~~ a technician without ~~certification~~ licensing pursuant to Iowa Code ~~Supplement~~ chapter 103.

~~*b.* On or after October 1, 2008, and before January 1, 2009, a person may operate as a contractor or installer subject to this chapter without being currently certified under this chapter only if the contractor or installer has applied for certification under this chapter. A contractor or installer operating under this paragraph may perform work only within the scope of certification for which the contractor or installer has applied.~~

277.1(2) *Endorsement.*

a. The ~~certification~~ licensure of each contractor, ~~or installer~~ technician, or technician trainee shall carry an endorsement for one or more of the following:

(1) Alarm system contractor.

1. Fire alarm system ~~contractor (1a)~~ installation.
2. Nurse call system ~~contractor (1b)~~ installation.
3. Security alarm system ~~contractor (1c)~~ installation.
4. Alarm system maintenance inspection ~~contractor (1d)~~.
5. Dwelling unit alarm system ~~contractor (1e)~~ installation.

(2) Alarm system ~~installer~~ technician.

1. Fire alarm system ~~installer (2a)~~ installation.
2. Nurse call system ~~installer (2b)~~ installation.
3. Security alarm system ~~installer (2c)~~ installation.
4. Alarm system component ~~installer (2d)~~ installation.
5. Alarm system maintenance inspection ~~installer (2e)~~.
6. Dwelling unit alarm system ~~installer (2f)~~ installation.

~~7.~~ (3) Alarm system ~~installer assistant (2g)~~ technician trainee.

b. Any person acting as an alarm system contractor or ~~installer~~ technician, other than a person who is not required to be ~~certified~~ licensed for such work by the state fire marshal, shall do so only in relation to systems covered by the endorsements on the contractor's or ~~installer's certification~~ technician's license.

277.1(3) *Length of ~~certification~~ licensure.* ~~Certification~~ Licensure shall normally be for three years and shall expire on September 30 of the third year after the ~~certification~~ license has been issued. A ~~certification~~ license which is effective on a date other than October 1 shall be effective on the date on which the ~~certification~~ license is issued and shall expire on the next September 30, after two years have passed from the date on which the ~~certification~~ license was issued.

277.1(4) *Inquiries.* Inquiries regarding the alarm system contractor ~~and installer certification program~~ or alarm system technician license programs may be addressed to:

~~Alarm System Contractor and Installer Certification Program~~
State Fire Marshal Division
Iowa Department of Public Safety
Attn: SFM Licensing Administration
215 East 7th Street
Des Moines, Iowa 50319

Inquiries may be addressed by electronic mail to ~~alarminfo@dps.state.ia.us,~~ sfmlicense@dps.state.ia.us or by ~~telephone to (515)725-6145~~ the United States Postal Service.

661—277.2(100C) Definitions. The following definitions apply to rules 661—277.1(100C) through ~~661—277.7(100C)~~ 661—277.11(100C):

"Alarm system" means a system or portion of a combination system that consists of components and circuits hardwired or wireless arranged to monitor and annunciate the status of a fire alarm, security alarm, or medical alarm or supervisory signal-initiating devices and to initiate the appropriate response to those signals, but does not mean any such security system or portion of a combination system installed in

a prison, jail, or detention facility owned by the state, a political subdivision of the state, the department of human services, or the Iowa veterans home.

"Alarm system ~~*component installer*~~ *components"* means ~~an employee of an alarm system contractor who is engaged in a~~ the portion of an alarm system installation limited to mounting alarm system raceways, boxes or system devices, and pulling of system cable, not including final termination at an alarm panel or final connection of the alarm system or alarm system testing.

"Alarm system contractor" or *"contractor"* means a person engaging in or representing oneself to the public as engaging in the activity or business of layout, installation, repair, alteration, addition, maintenance, or maintenance inspection of alarm systems in this state.

"Alarm system ~~*installer*~~ *technician"* or *"technician"* means a person who is engaged in the layout, installation, repair, alteration, addition, testing, or maintenance of alarm systems and who is ~~certified~~ licensed under the provisions of this chapter to perform work authorized by that ~~certification~~ license and any endorsement pertaining thereto. An alarm system ~~installer~~ technician shall be an employee of an alarm system contractor or, if employed by anyone other than an alarm system contractor, shall perform work requiring ~~certification~~ licensing as an alarm system ~~installer~~ technician only on property owned or occupied by such employer and may obtain a license if the employer is not a licensed contractor.

"Alarm system ~~*installer assistant*~~ *technician trainee"* means a person who is engaged in the layout, installation, repair, alteration, addition, or maintenance of alarm systems under the direct supervision of ~~an~~ a responsible managing employee or licensed alarm system ~~installer~~ technician.

"Alarm system maintenance inspection ~~*installer*~~*"* means an employee of an alarm system contractor who is engaged in maintenance inspection of fire alarm, nurse call, or security alarm systems.

"Dwelling alarm system" means a system or portion of a combination system that consists of components and circuits hardwired or wireless arranged to monitor and annunciate the status of a fire alarm, nurse call or security alarm or supervisory signal-initiating devices and to initiate the appropriate response to those signals, installed in a single-family dwelling or a single dwelling unit of a multifamily residential building and not interconnected with another dwelling alarm system. A dwelling alarm system does not mean single-station or multiple-station alarms installed in dwelling units.

"Fire alarm system" means a system or portion of a combination system that consists of components and circuits hardwired or wireless arranged to monitor and annunciate the status of a fire alarm or supervisory signal-initiating devices and to initiate the appropriate response to those signals that serves the general fire alarm needs of a building or buildings and that provides fire department or occupant notification or both. A fire alarm system does not mean single-station or multiple-station alarms installed in dwelling units.

"Installation" means hanging electrical conduits, raceways or boxes; mounting system devices; pulling system cable; activating system-initiating devices and system control units or verifying system operations to meet specifications; and performing system acceptance testing.

"Layout" means drawings, calculations and component specifications to achieve the specified system design installation. "Layout" does not include design.

"Listed" means equipment, materials, or services included in a list published by a nationally recognized independent testing organization that is concerned with evaluation of products or services, that maintains periodic inspection of production of listed equipment or materials or periodic evaluation of services, and whose listing states that either the equipment, material, or service meets appropriate designated standards or has been tested and found suitable for a specified purpose.

"Maintenance inspection" means periodic inspection and certification completed by an alarm system contractor or ~~installer~~ technician. For purposes of this chapter, "maintenance inspection" does not include an inspection completed by a building official or fire inspector when acting in an official capacity, or an insurance inspector employed by an insurance company licensed to do business in Iowa.

~~*"NBFAA"* means the National Burglar and Fire Alarm Association, 2300 Valley View Lane, Suite 230, Irving, Texas 75062.~~

~~NOTE: As of July 1, 2008, the Web site of the NBFAA is http://www.alarm.org/.~~

~~*"NICET"* means the National Institute for Certification in Engineering Technologies, 1420 King Street, Alexandria, Virginia 22314-2794.~~

~~NOTE: As of July 1, 2008, the Web site of NICET is http://www.nicet.org/.~~

"Nurse call system" means a nurse call system or portion of a combination system that consists of components and circuits hardwired or wireless arranged to monitor and annunciate the status of a nurse call system or supervisory signal-initiating devices and to initiate the appropriate response to those signals, installed in a facility required to be licensed or certified by the state pursuant to Iowa Code chapter 125, 135B, 135C, 135G, 135H, 135J, 231C, or 231D, or installed in a facility operating pursuant to Iowa Code chapter 218, 219, 223, 225, 233A, or 233B, to initiate response of on-site medical care providers.

"Offense directly relates" refers to either of the following:

1. The actions taken in furtherance of an offense are actions customarily performed within the scope of practice of a licensed profession.

2. The circumstances under which an offense was committed are circumstances customary to a licensed profession.

"Responsible managing employee" means an owner, partner, officer, or manager employed full-time by an alarm system contractor who is designated as a responsible managing employee for an alarm system contractor and who meets the requirements for a responsible managing employee established in rule 661—277.3(100C).

"Security alarm system" means a system or portion of a combination system that consists of components and circuits hardwired or wireless arranged to monitor and annunciate the status of a security alarm or supervisory signal-initiating devices and to initiate the appropriate response to those signals, installed in a building or facility to detect unauthorized entry into a building or portion of a building and to notify security personnel or building occupants or both.

661—277.3(100C) Responsible managing employee. Each alarm system contractor shall designate a responsible managing employee and may designate one or more alternate responsible managing employees. A contractor may designate more than one responsible managing employee in order to satisfy the requirements for more than one endorsement as provided in subrule 277.1(2). If more than one responsible managing employee is designated, the contractor shall indicate for which responsible managing employee each designated alternate managing employee serves as an alternate.

277.3(1) The responsible managing employee or employees shall be designated in the application for ~~certification~~ licensure; and, if a responsible managing employee is no longer acting in that role, the contractor shall so notify the state fire marshal, in writing, within 30 calendar days, ~~on a form designated by the fire marshal~~ as provided in subrule 277.1(4).

277.3(2) If a responsible managing employee is no longer acting in the role of responsible managing employee and the contractor has designated an alternate responsible managing employee, the alternate responsible managing employee shall become the responsible managing employee and the contractor shall so notify the state fire marshal, in writing as provided in subrule 277.1(4), within 30 calendar days of the date on which the preceding responsible managing employee ceased to act in that role. If the contractor has designated more than one alternate responsible managing employee, the notice to the state fire marshal shall indicate which alternate responsible managing employee has assumed the position of responsible managing employee.

277.3(3) If a responsible managing employee designated by an alarm system contractor is no longer acting in the role of responsible managing employee and the contractor has not designated an alternate responsible managing employee, the contractor shall designate a new responsible managing employee and shall notify the state fire marshal, in writing as provided in subrule 277.1(4), of the designation within six months of the date on which the former responsible managing employee ceased to act in that capacity~~, on a form designated by the fire marshal~~ in writing as provided in subrule 277.1(4). If the state fire marshal has not been notified of the appointment of a new responsible managing employee within six months of the date on which a responsible managing employee ceased serving in that capacity, the state fire marshal shall suspend the ~~certification~~ license of the alarm system contractor.

277.3(4) A responsible managing employee or an alternate responsible managing employee shall meet one of the ~~following~~ requirements for the following endorsements:

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~~*a.* Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in alarm system design.~~

~~*b.* For fire alarm system endorsement, current certification by NICET at level III or higher as a fire alarm systems technician.~~

~~*c.* For nurse call system endorsement, current certification by a nurse call system manufacturer or current NICET level II certification or higher in fire alarm systems or audio systems.~~

~~*d.* For security alarm system endorsement, current certification by NBFAA as an advanced alarm system technician (level II) or higher, or NICET level II certification or higher in fire alarm systems.~~

~~*e.* For alarm system maintenance inspection endorsement, current certification by NBFAA as an advanced alarm technician (level II), or NICET level II certification or higher in fire alarm systems.~~

~~*f.* For dwelling unit alarm system endorsement, current certification by NBFAA as an alarm technician (level I) or higher, or NICET level I certification or higher in fire alarm systems.~~

~~*g.* For any endorsement, completion of any third-party training or certification approved by the fire marshal, as provided in subrule 277.3(5), for that endorsement.~~

~~*h.* Prior to October 1, 2010, an alarm system contractor may receive provisional certification if the person designated as the contractor's responsible managing employee provides documentation that procedures have been initiated for obtaining required qualifications for the endorsement requested. Provisional certification shall not be recognized on or after October 1, 2011. Documentation may include an affidavit completed by the applicant if documentation is not available from the testing organization.~~

~~EXCEPTION: Provisional certification for fire alarm endorsement shall be recognized until October 1, 2013, provided that by no later than October 1, 2011, the responsible managing employee for a contractor with this provisional endorsement shall have achieved NICET level II certification in fire alarm systems.~~

a. Fire alarm system installation:

(1) Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in alarm system design, or

(2) Current certification by the National Institute for Certification in Engineering Technologies (NICET) at level III or above in fire alarm systems, or

(3) Current certification by the Electronic Security Association (ESA) at level III in certified fire alarm designer (CFAD), or

(4) Satisfactory completion of an applicable training or testing program that has been approved by the state fire marshal.

b. Nurse call system installation:

(1) Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in alarm system design, or

(2) Current certification by a nurse call system manufacturer, or

(3) Current certification by the National Institute for Certification in Engineering Technologies (NICET) at level II or above in fire alarm systems, or

(4) Current certification by the Electronic Security Association (ESA) at level II in certified alarm technician (CAT), or

(5) Satisfactory completion of an applicable training or testing program that has been approved by the state fire marshal.

c. Security alarm system installation:

(1) Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in alarm system design, or

(2) Current certification by the National Institute for Certification in Engineering Technologies (NICET) at level II or above in fire alarm systems, or

(3) Current certification by the Electronic Security Association (ESA) at level II in certified alarm technician (CAT), or

(4) Satisfactory completion of an applicable training or testing program that has been approved by the state fire marshal.

d. Alarm system maintenance inspection:

(1) Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in alarm system design, or

(2) Current certification by the National Institute for Certification in Engineering Technologies (NICET) at level II or above in fire alarm systems, or

(3) Current certification by the Electronic Security Association (ESA) at level II in certified alarm technician (CAT), or

(4) Current certification by the National Institute for Certification in Engineering Technologies (NICET) level II or above in inspection and testing of fire alarm systems, or

(5) Satisfactory completion of an applicable training or testing program that has been approved by the state fire marshal.

e. Dwelling unit alarm system installation:

(1) Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in alarm system design, or

(2) Current certification by the National Institute for Certification in Engineering Technologies (NICET) at level I or above in fire alarm systems, or

(3) Current certification by the Electronic Security Association (ESA) at level I in certified alarm technician (CAT), or

(4) Satisfactory completion of an applicable training or testing program that has been approved by the state fire marshal.

277.3(5) In any case in which training or testing that is offered to satisfy the requirements of this rule is required to be approved by the state fire marshal, such approval is required prior to acceptance of the training or testing to meet ~~certification~~ licensing requirements. Approval by the state fire marshal of any training or testing to meet these requirements may be sought by the individual, firm, or organization providing the testing or training or initiated by the state fire marshal. Any individual, firm, or organization seeking to obtain such approval may apply to the state fire marshal no later than July 1, 2021, and no later than July 1 every two years thereafter. ~~An application form for approval of a testing or training program may be obtained by contacting the alarm system contractor and installer certification program as specified in subrule 277.1(4).~~ Program information and any other documentation requested by the state fire marshal for consideration shall be submitted to the state fire marshal as specified in subrule 277.1(4). Training and testing approved by the state fire marshal will be listed on the state fire marshal's licensing website.

277.3(6) Work performed by a contractor subject to these rules shall be limited to areas of competence indicated by the specific certification or certifications or other training requirements met by the responsible managing employee. Work performed in the state shall not begin prior to:

a. Receipt of a new or renewed license issued by the state fire marshal to the applicant, or

b. Receipt of written approval to perform work prior to issuance of a new or renewed license from the state fire marshal to the applicant.

277.3(7) Nothing in this rule shall be interpreted to conflict with or diminish any requirement for training or certification for anyone installing or servicing an alarm system set forth in any rule of the state fire marshal or local fire ordinance or standard adopted by reference therein.

661—277.4(100C) Contractor ~~certification~~ licensing requirements. An alarm system contractor shall meet all of the following requirements in order to receive ~~certification~~ licensure from the state fire marshal and shall continue to meet all requirements throughout the period of ~~certification~~ licensure. The contractor shall notify the state fire marshal, in writing, ~~on a form designated by the fire marshal~~ as provided in subrule 277.1(4), within 30 calendar days if the contractor fails to meet any requirement for ~~certification~~ licensure.

277.4(1) No change.

277.4(2) The contractor shall maintain general and complete operations liability insurance for the layout, installation, repair, alteration, addition, maintenance, and inspection of automatic alarm systems in the following amounts: $500,000 per person, $1,000,000 per occurrence, and $1,000,000 property damage.

a. The carrier of any insurance coverage maintained to meet this requirement shall notify the state fire marshal 30 days prior to the effective date of cancellation or reduction of the coverage.

b. The contractor shall cease operation immediately if the insurance coverage required by this subrule is no longer in force and other insurance coverage meeting the requirements of this subrule is not in force. A contractor shall not initiate any installation of an alarm system which cannot reasonably be expected to be completed prior to the effective date of the cancellation of the insurance coverage required by this subrule and of which the contractor has received notice, unless new insurance coverage meeting the requirements of this subrule has been obtained and will be in force upon cancellation of the prior coverage.

277.4(3) The contractor shall maintain current registration as a contractor with the labor services division of the Iowa workforce development department in compliance with Iowa Code chapter 91C and 875—Chapter 150, Iowa Administrative Code. The contractor shall provide a copy of the contractor's current registration from Iowa workforce development with their application for licensure.

EXCEPTION: A contractor shall not be required to maintain registration with the labor services division of the Iowa workforce development department if the contractor does not meet the definition of "contractor" for purposes of Iowa Code chapter 91C and 875—Chapter 150, Iowa Administrative Code. Written documentation of such exemption must be provided to the state fire marshal upon application for licensure as an alarm system contractor.

277.4(4) No change.

277.4(5) A license may be renewed only if the licensee has completed recertification of the applicable requirements relative to the endorsement for which the licensee is renewing.

661—277.5(100C) Contractor application and fees.

277.5(1) *Application.* Any contractor seeking ~~certification~~ licensure as an alarm system contractor shall submit a completed application form to the state fire marshal. The application shall be filed no later than 30 days prior to the date ~~on which certification is required~~ of beginning work in this state or the date on which an existing ~~certification~~ license expires. An application form may be obtained from the state fire marshal or from the ~~Web site of the alarm system contractor and installer certification program~~ state fire marshal's website. The application form shall be submitted with all required attachments and the required application fee established in ~~subrule~~ subrules 277.5(2) and 277.5(5). An application shall not be considered complete unless all required information is submitted, including required attachments and fees, and shall not be processed until it is complete.

NOTE: The ~~Web site~~ website for the alarm system contractor and ~~installer certification program~~ technician licensure programs is: ~~http://www.dps.state.ia.us/fm/alarm/index.shtml~~ dps.iowa.gov/divisions/state-fire-marshal/licensing/alarm.

277.5(2) ~~*Certification*~~ *Licensure fee.* The ~~certification~~ license fee for alarm system contractors shall be $300 for three years. If an application for ~~certification~~ licensure provides for more than one responsible managing employee pursuant to rule 661—277.3(100C), there shall be an additional fee of $50 for each responsible managing employee beyond the first. If an application for ~~certification~~ licensure provides for more than one endorsement as provided in subrule 277.1(2), there shall be an additional fee of $50 for each endorsement beyond the first. ~~If an application is denied, all except $100 of the fee may be refunded if the applicant applies to the fire marshal for a refund. No refund of the certification fee shall be made if the certification is revoked or if the denial of the certification is based on the applicant's knowingly including false or misleading information on the application.~~

The state fire marshal shall waive any fee charged to an applicant for a license if the applicant's household income does not exceed 200 percent of the federal poverty income guidelines and the applicant is applying for the license for the first time in this state.

277.5(3) *Payment.* The ~~certification~~ license fee shall be submitted electronically or by draft, check, or money order in the applicable amount payable to the ~~Department of Public Safety~~ Iowa State Fire Marshal Division. ~~The memo portion of the check, if the payment is by check, shall be completed as follows: Alarm System Contractor and Installer Certification Program.~~ Draft, check, or money order

shall be addressed to the state fire marshal as established in subrule 277.1(4). Payment shall not be made in cash.

277.5(4) *Amended ~~certification~~ licensure fee.* The fee for issuance of an amended ~~certification~~ license is ~~$100~~ the difference between the original license fee paid and changes in endorsement(s) or responsible managing employee(s), if applicable. The fee shall be submitted with the request for an amended ~~certification~~ licensure. A contractor shall request and the state fire marshal shall issue an amended license for any of the items listed below and a fee does not apply:

a. ~~A contractor shall request and the fire marshal shall issue an amended certificate for any of the following:~~

~~(1)~~ A change in the designation of a responsible managing employee;

~~(2)~~ *b.* A change in insurance coverage; or

~~(3)~~ *c.* A change in any other material information included in or with the initial or renewal application. A change in the location of a business is a material change; however, no fee shall be charged for the issuance of an amended ~~certificate~~ license if the sole reason for amending the ~~certificate~~ license is to reflect a change in location which was necessitated by disaster emergency conditions and the business was located in an area subject to a disaster emergency proclamation issued by the governor pursuant to Iowa Code section 29C.6~~.~~; or

~~*b.*~~ *d.* Other changes in the information required in the application form, including renewal of insurance coverage with a new expiration date, shall be reported to the state fire marshal but shall not require issuance of an amended ~~certification~~ license or payment of the amended ~~certification~~ license fee.

277.5(5) *Attachments.* Required attachments to the application for ~~certification~~ licensure include, but are not limited to, the following:

a. Documentation verifying that the contractor has in force the insurance coverage required by subrule 277.4(2). The documentation shall include an acknowledgment that the contractor's insurance coverage extends to any work performed by the contractor within the scope of ~~certification~~ licensure pursuant to this chapter. The documentation may consist of a letter from the insurance carrier or a copy of the insurance certificate with an endorsement showing the required information.

b. Documentation verifying that the person designated as the responsible managing employee and any persons designated as alternate responsible managing employees have met the applicable ~~certification~~ licensure requirements.

c. Documentation of qualifying licensure in another issuing jurisdiction by providing the following:

(1) Proof of residency in this state.

(2) Proof all conditions are met as established in rule 661—277.8(272C).

1. Copy of a license from other issuing jurisdiction.

2. Evidence the applicant met the issuing jurisdiction's educational requirements and, if applicable, work experience requirements.

3. Evidence the applicant passed issuing jurisdiction's required examination, if applicable.

4. Evidence the applicant has not had a license revoked or voluntarily surrendered, had discipline imposed, or been under investigation by another issuing jurisdiction.

5. Evidence the applicant does not have a complaint, allegation, or investigation pending before any regulatory entity related to unprofessional conduct.

277.5(6) *National criminal history check.* Each applicant for ~~certification~~ licensure as a contractor shall submit fingerprints and the applicable fee ~~as directed by the division of criminal investigation~~ at the time of application for a new or renewal license for a national criminal history check conducted by the Federal Bureau of Investigation.

661—277.6(100C) ~~Installer certification~~ Technician licensure requirements. An applicant for alarm system ~~installer certification~~ technician licensure shall meet all of the following requirements which are applicable to the endorsements for which the applicant is applying in order to receive ~~certification~~ licensure from the state fire marshal and shall continue to meet all such requirements throughout the period of ~~certification~~ licensure. The ~~installer~~ technician shall notify the state fire marshal, in writing,

~~on a form designated by the fire marshal,~~ as provided in subrule 277.1(4) within 30 calendar days if the ~~installer~~ technician fails to meet any applicable requirement for ~~certification~~ licensure.

277.6(1) The alarm system ~~installer~~ technician shall meet one of the following requirements for the following endorsements:

a. ~~Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in alarm system design.~~ Fire alarm system installation:

(1) Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in alarm system design, or

(2) Current certification by the National Institute for Certification in Engineering Technologies (NICET) at level II or above in fire alarm systems, or

(3) Current certification by the Electronic Security Association (ESA) at level II in certified alarm technician (CAT), or

(4) Current certification by the Elite Continuing Education University (CEU) in fire alarm installation techniques (FAIT), or

(5) Satisfactory completion of an applicable training or testing program that has been approved by the state fire marshal.

b. ~~For fire alarm system endorsement, current certification by NICET at level II or higher in fire alarm systems or current certification by NBFAA as an advanced alarm system technician (level II) and two years of related work experience.~~ Nurse call system installation:

(1) Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in alarm system design, or

(2) Current certification by a nurse call system manufacturer, or

(3) Current certification by the National Institute for Certification in Engineering Technologies (NICET) at level I or above in fire alarm systems, or

(4) Current certification by the Electronic Security Association (ESA) at level I in certified alarm technician (CAT), or

(5) Current licensure as a master electrician or journeyman electrician by the electrical examining board pursuant to Iowa Code chapter 103.

(6) Satisfactory completion of an applicable training or testing program that has been approved by the state fire marshal.

c. ~~For nurse call system endorsement, current certification by a nurse call system manufacturer, documented training by the certified nurse call contractor employer, current NICET level I certification or higher in fire alarm systems or audio systems, completed certification by NBFAA as an alarm system technician (level I) or higher, or current licensure as a master electrician or journeyman electrician by the electrical examining board, pursuant to Iowa Code Supplement chapter 103.~~ Security alarm system installation:

(1) Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in alarm system design, or

(2) Current certification by the National Institute for Certification in Engineering Technologies (NICET) at level I or above in fire alarm systems, or

(3) Current certification by the Electronic Security Association (ESA) at level I in certified alarm technician (CAT), or

(4) Current certification by the Elite Continuing Education University (CEU) in advanced electronic intrusion technician (AEIT), or

(5) Current certification by the Complete Electrical Academy at level I in Electronic Security Technician, or

(6) Satisfactory completion of an applicable training or testing program that has been approved by the state fire marshal.

d. ~~For security alarm system endorsement, completed certification by NBFAA as an alarm technician (level I) or higher, or current NICET level I certification or higher in fire alarm systems or audio systems.~~ Alarm system component installation:

(1) Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in alarm system design, or

(2) Current certification by the National Institute for Certification in Engineering Technologies (NICET) at level I or above in fire alarm systems, or

(3) Current certification by the Electronic Security Association (ESA) at level I in certified alarm technician (CAT), or

(4) Current licensure as a master electrician or journeyman electrician by the electrical examining board pursuant to Iowa Code chapter 103.

(5) Satisfactory completion of an applicable training or testing program that has been approved by the state fire marshal.

e. ~~For alarm system component installer endorsement, completed certification by NBFAA as an alarm technician (level I) or higher, current NICET level I certification or higher in fire alarm systems or audio systems, or current licensure as a master electrician or journeyman electrician by the electrical examining board, pursuant to Iowa Code Supplement chapter 103.~~ Alarm system maintenance inspection:

(1) Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in alarm system design, or

(2) Current certification by the National Institute for Certification in Engineering Technologies (NICET) at level I or above in fire alarm systems, or

(3) Current certification by the Electronic Security Association (ESA) at level I in certified alarm technician (CAT), or

(4) Current certification by the National Institute for Certification in Engineering Technologies (NICET) at level I or above in inspection and testing of fire alarm systems, or

(5) Current certification by the Complete Electrical Academy at level I in electronic security technician, or

(6) Satisfactory completion of an applicable training or testing program that has been approved by the state fire marshal.

f. ~~For alarm system maintenance inspection endorsement, completed certification by NBFAA as an alarm system technician (level I) or higher, or current NICET level I certification or higher in fire alarm systems or audio systems.~~ Dwelling unit alarm system installation:

(1) Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in alarm system design, or

(2) Current certification by the National Institute for Certification in Engineering Technologies (NICET) at level I or above in fire alarm systems, or

(3) Current certification by the Electronic Security Association (ESA) at level I in certified alarm technician (CAT), or

(4) Current certification by the Elite Continuing Education University (CEU) in alarm level I, or

(5) Current certification by the Complete Electrical Academy at level I in electronic security technician, or

(6) Satisfactory completion of an applicable training or testing program that has been approved by the state fire marshal.

g. ~~For dwelling unit alarm system endorsement, completed certification by NBFAA as an alarm technician (level I) or higher, or current NICET level I certification or higher in fire alarm systems or audio systems, or current licensure as a master electrician or journeyman electrician by the electrical examining board, pursuant to Iowa Code Supplement chapter 103.~~ Alarm system technician trainee, submission of a completed application no later than the first day of employment. An alarm system technician trainee may perform work which requires licensure under this chapter only under the direct supervision of a licensed alarm system technician or responsible managing employee whose license contains one or more endorsements as provided in rules 661—277.3(100C) and 661—277.6(100C), respectively, and that work must be within the scope of work authorized by the endorsements held by the supervising alarm system technician or responsible managing employee.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

~~*h.* For alarm system installer assistant endorsement, submission of a completed application no later than the first day of employment. An alarm system installer assistant may perform work which requires certification under this chapter only under the direct supervision of an alarm system installer whose certification contains one or more endorsements as provided in subrule 277.6(1), paragraphs *"a"* through *"f,"* and that work must be within the scope of work authorized by the endorsements held by the supervising installer.~~

~~*i.* For any endorsement, completion of any third-party training or certification approved by the state fire marshal as provided in subrule 277.3(5).~~

~~*j.* Prior to October 1, 2010, an alarm system installer may receive provisional certification if the installer provides documentation that procedures have been initiated for obtaining required qualifications for the endorsement requested. Provisional certification shall not be recognized on or after October 1, 2011. No provisional certification shall be issued for alarm system installer endorsement. Documentation may include an affidavit completed by the applicant if documentation is not available from the testing organization.~~

277.6(2) The ~~installer~~ technician shall maintain compliance with all other applicable provisions of law related to operation in the state of Iowa and of any political subdivision in which the ~~installer~~ technician is performing work.

277.6(3) In any case in which training or testing that is offered to satisfy the requirements of this rule is required to be approved by the state fire marshal, such approval is required prior to acceptance of the training or testing to meet ~~certification~~ licensure requirements. Approval by the state fire marshal of any training or testing to meet these requirements may be sought by the individual, firm, or organization providing the testing or training or initiated by the state fire marshal. Any individual, firm, or organization seeking to obtain such approval may apply to the state fire marshal no later than July 1, 2021, and no later than July 1 every two years thereafter. ~~An application form for approval of a testing or training program may be obtained by contacting the alarm system contractor and installer certification program~~ Program information and any other documentation requested by the state fire marshal for consideration shall be submitted to the state fire marshal as specified in subrule 277.1(4). Training and testing approved by the state fire marshal will be listed on the state fire marshal's licensing website.

277.6(4) Work performed by ~~an installer~~ a technician subject to these rules shall be limited to areas of competence indicated by the specific certification or certifications or other training requirements met by the ~~installer~~ technician and shall be limited to areas of competence indicated by the specific certification or certifications or other training requirements met by the responsible managing employee of the ~~installer's~~ technician's employer, unless the employer is not a ~~certified~~ licensed contractor as allowed by ~~2008 Iowa Acts, House File 2547, section 2~~ Iowa Code chapter 100C. Work performed in the state shall not begin prior to one of the following:

a. Receipt of a new or renewed license issued by the state fire marshal to the applicant, or

b. Receipt of written approval to perform work prior to issuance of a new or renewed license from the state fire marshal to the applicant.

277.6(5) Nothing in this rule shall be interpreted to conflict with or diminish any requirement for training or certification for anyone installing or servicing an alarm system set forth in any rule of the state fire marshal or local fire ordinance or standard adopted by reference therein.

277.6(6) A license may be renewed only if the licensee has completed recertification of the applicable requirements relative to the endorsements for which the licensee is renewing.

661—277.7(100C) ~~Installer~~ Technician application and fees.

277.7(1) *Application.* Any ~~installer~~ technician seeking ~~certification~~ licensure as an alarm system ~~installer~~ technician shall submit a completed application form to the state fire marshal. The application shall be filed no later than 30 days prior to the date ~~on which certification is required or~~ on which work begins in the state or on which an existing ~~certification~~ license expires, except that an application for endorsement as an alarm system ~~installer assistant~~ technician trainee shall be submitted no later than the first day of employment as an alarm system ~~installer assistant~~ technician trainee. An application form may be obtained from the state fire marshal or from the ~~Web site of the alarm system contractor~~

~~and installer certification program~~ state fire marshal's website. The application form shall be submitted with all required attachments and the required application fee established in ~~subrule 277.7(2)~~ this rule. An application shall not be considered complete unless all required information is submitted, including required attachments and fees, and shall not be processed until it is complete.

~~NOTE: The Web site for the alarm system contractor and installer certification program is: http://www.dps.state.ia.us/fm/alarm/index.shtml.~~

277.7(2) ~~*Certification*~~ *Licensure fee.* The ~~certification~~ license fee for an alarm system ~~installer~~ technician shall be $150 for three years, except that the ~~certification~~ license fee for endorsement as an alarm system ~~installer assistant~~ technician trainee shall be $50 for one year. There shall be an additional fee of $25 for each endorsement beyond the first. ~~If an application is denied, all except $50 of the fee may be refunded if the applicant applies to the fire marshal for a refund. No refund of the certification fee shall be made if the certification is revoked or if the denial of the certification is based on the applicant's knowingly including false or misleading information on the application.~~

The state fire marshal shall waive any fee charged to an applicant for a license if the applicant's household income does not exceed 200 percent of the federal poverty income guidelines and the applicant is applying for the license for the first time in this state.

277.7(3) *Payment.* The certification fee shall be submitted electronically by draft, check, or money order in the applicable amount payable to the ~~Department of Public Safety, with the memo portion of the check completed as follows: Alarm System Contractor and Installer Certification Program~~ Iowa State Fire Marshal Division. Draft, check, or money order shall be addressed to the state fire marshal as established in subrule 277.1(4). Payment shall not be made in cash.

277.7(4) *Amended* ~~*certification*~~ *licensure fee.*

a. The fee for issuance of an amended ~~certification~~ license is ~~$50~~ the difference between the original license fee paid and changes in endorsement(s), if applicable. The fee shall be submitted with the request for an amended ~~certification~~ license. ~~An installer~~ A technician shall request and the state fire marshal shall issue an amended ~~certificate~~ license for a change in any material information included in or with the initial or renewal application. A licensee shall request and the state fire marshal shall issue an amended license for any of the following reasons and a fee does not apply:

(1) A change in employer. A licensee may only transfer their technician license to another employer if the licensee paid the license fee at the time of original application. If the licensee's previous employer paid the license fee, the licensee must reapply for a new license under their new employer and pay the license fee.

(2) A change in any other material information included in or with the initial or renewal application. A change of address is a material change. However, if the request for an amended license is solely for a change of business address, the former address of the business is in an area subject to a disaster emergency proclamation issued by the governor pursuant to Iowa Code section 29C.6, and the relocation occurs as a result of flooding or storm damage or other conditions which form a basis for the issuance of the disaster emergency proclamation, the fee shall not apply, although an amended license shall be issued.

b. Other changes in the information required in the application form shall be reported to the state fire marshal but shall not require issuance of an amended ~~certification~~ license or payment of the amended ~~certification~~ license fee.

277.7(5) *Attachments.* Required attachments to the application for ~~certification~~ license include, but are not limited to, ~~documentation of required certifications, licenses or training.~~ the following:

a. Documentation applicant has met the applicable licensure requirements.

b. Documentation of qualifying licensure in another issuing jurisdiction by providing the following:

(1) Proof of residency in this state.

(2) Proof all conditions are met as established in rule 661—277.8(272C).

1. Copy of a license from other issuing jurisdiction.

2. Evidence the applicant met the issuing jurisdiction's educational requirements and, if applicable, work experience requirements.

3. Evidence the applicant passed issuing jurisdiction's required examination, if applicable.

4. Evidence the applicant has not had a license revoked or voluntarily surrendered, had discipline imposed, or been under investigation by another issuing jurisdiction.

5. Evidence the applicant does not have a complaint, allegation, or investigation pending before any regulatory entity related to unprofessional conduct.

277.7(6) *National criminal history check.* Each applicant for ~~certification~~ licensure as ~~an installer~~ a technician shall submit fingerprints and the applicable fee ~~as directed by the division of criminal investigation~~ at the time of application for a new or renewal license for a national criminal history check conducted by the Federal Bureau of Investigation.

ITEM 15. Renumber rules **661—277.8(100C)** and **661—277.9(100C)** as **661—277.9(100C)** and **661—277.10(100C)**.

ITEM 16. Adopt the following **new** rule 661—277.8(272C):

661—277.8(272C) Licensure of persons licensed in other jurisdictions.

277.8(1) For the purposes of this rule, "issuing jurisdiction" means the duly constituted authority in another state that has issued a professional license, certificate, or registration to a person.

277.8(2) Notwithstanding any other provision of law, an alarm system contractor license or alarm system technician license shall be issued without an examination to a person who establishes residency in this state or to a person who is married to an active duty member of the military forces of the United States and who is accompanying the member on an official permanent change of station to a military installation located in this state if all of the following conditions are met:

a. The person is currently licensed by at least one other issuing jurisdiction as an alarm system contractor or alarm system technician with a substantially similar scope of practice and the license is in good standing in all issuing jurisdictions in which the person holds a license.

b. The person has been licensed by another issuing jurisdiction for at least one year.

c. When the person was licensed by the issuing jurisdiction, the issuing jurisdiction imposed minimum educational requirements and, if applicable, work experience requirements, and the issuing jurisdiction verifies that the person met those requirements in order to be licensed in that issuing jurisdiction.

d. The person previously passed an examination required by the other issuing jurisdiction for licensure, if applicable.

e. The person has not had a license revoked and has not voluntarily surrendered a license in any other issuing jurisdiction or country while under investigation for unprofessional conduct.

f. The person has not had discipline imposed by any other regulating entity in this state or another issuing jurisdiction or country. If another jurisdiction has taken disciplinary action against the person, the state fire marshal shall determine if the cause for the action was corrected and the matter resolved. If the state fire marshal determines that the matter has not been resolved by the jurisdiction imposing discipline, the state fire marshal shall not issue or deny a license to the person until the matter is resolved.

g. The person does not have a complaint, allegation, or investigation pending before any regulating entity in another issuing jurisdiction or country that relates to unprofessional conduct. If the person has any complaints, allegations, or investigations pending, the state fire marshal shall not issue or deny a license to the person until the complaint, allegation, or investigation is resolved.

h. The person pays all applicable fees.

i. The person does not have a criminal history that would prevent the person from holding the alarm system contractor or alarm system technician license applied for in this state.

277.8(3) A person licensed pursuant to this rule is subject to the laws regulating the person's practice in this state and is subject to the jurisdiction of the state fire marshal.

277.8(4) This rule does not apply to any of the following:

a. The ability of the state fire marshal to require the submission of fingerprints or completion of a criminal history check.

b. The ability of the state fire marshal to require a person to take and pass an examination specific to the laws of this state prior to issuing a license. If the state fire marshal requires an application to take and pass an examination specific to the laws of this state, the state fire marshal shall issue an applicant a temporary license that is valid for a period of three months and may be renewed once for an additional period of three months.

277.8(5) Except as provided in subrule 277.8(2), a person applying for a license in this state who relocates to this state from another state that did not require a license to practice as an alarm system contractor or alarm system technician may be considered to have met any education, training, or work experience requirements imposed by the state fire marshal in this state if the person has three or more years of related work experience with a substantially similar scope of practice within the four years preceding the date of application as determined by the state fire marshal.

ITEM 17. Amend renumbered rules 661—277.9(100C) and 661—277.10(100C) as follows:

661—277.9(100C) Complaints. Complaints regarding the performance of any ~~certified~~ licensed contractor or ~~installer~~ technician, failure of a ~~certified~~ licensed contractor or ~~installer~~ technician to meet any of the requirements established in Iowa Code ~~Supplement~~ chapter 100C or this chapter or any other provision of law, or operation as an alarm system contractor or ~~installer~~ technician without ~~certification~~ licensure may be filed with the state fire marshal.

277.9(1) Complaints should be addressed as follows:

~~Alarm System Contractor and Installer Certification Program~~
State Fire Marshal Division
Iowa Department of Public Safety
Attn: SFM Licensing Administration
215 East 7th Street
Des Moines, Iowa 50319

277.9(2) Complaints may be submitted by electronic mail to ~~alarminfo@dps.state.ia.us~~ sfmlicense@dps.state.ia.us or by ~~facsimile to (515)725-6172~~ the United States Postal Service.

277.9(3) Complaints should be as specific as possible and must clearly identify the contractor or ~~installer~~ technician against whom the complaint is filed. ~~A form which may be used to file complaints is available on the Web site of the alarm system contractor and installer certification program. Complaints may be filed without using the complaint form provided, but shall be submitted in writing.~~ Complaints shall be submitted in writing to the state fire marshal. A complaint may be submitted anonymously, but if the name and contact information of the complainant are provided, the complainant will be notified of the disposition of the complaint.

~~NOTE: The Web site for the alarm system contractor and installer certification program is: http://www.dps.state.ia.us/fm/alarm/index.shtml.~~

661—277.10(100C) Denial, suspension, or revocation of ~~certification~~ licensure; civil penalties; and appeals. The state fire marshal may deny, suspend or revoke the ~~certification~~ license of a contractor or ~~installer~~ technician or may assess a civil penalty to the contractor, if any provision of these rules or any other provision of law related to operation as an alarm system contractor or ~~installer~~ technician is violated.

277.10(1) *Denial.* The state fire marshal may deny an application for ~~certification~~ licensure:

a. If the applicant makes a false statement on the application form or in any other submission of information required for ~~certification~~ licensure. "False statement" means providing false information or failing to include material information, such as a previous criminal conviction or action taken by another jurisdiction, when requested on the application form or otherwise in the application process.

b. If the applicant fails to meet all of the requirements for ~~certification~~ licensure established in this chapter.

c. If the applicant is currently barred for cause from acting as an alarm system contractor or ~~installer~~ technician in another jurisdiction.

d. If an applicant has previously been barred for cause from operating in another jurisdiction as an alarm system contractor or ~~installer~~ technician and if the basis of that action reflects upon the integrity of the applicant in operating as an alarm system contractor or ~~installer~~ technician. If an applicant is found to have been previously barred for cause from operating as an alarm system contractor or ~~installer~~ technician in another jurisdiction and is no longer barred from doing so, the state fire marshal shall evaluate the record of that action with regard to the likelihood that the applicant would operate with integrity as a ~~certified~~ licensed contractor or ~~installer~~ technician. If an applicant is denied under this provision, the applicant shall be notified of the specific reasons for the denial.

e. ~~If either the applicant or the designated responsible managing employee, if the application is for certification as a contractor, has been convicted of a crime which reflects upon the integrity of the applicant in operating as an alarm system contractor or installer, the fire marshal shall evaluate the conviction or convictions with regard to the likelihood that the applicant would operate with integrity as a certified contractor or installer.~~ Conviction of a felony offense, if the offense directly relates to the profession or occupation of the licensee, in the courts of this state or another state, territory or country. "Conviction" as used in this subrule includes a conviction of an offense which if committed in this state would be a felony without regard to its designation elsewhere, and includes a finding or verdict of guilt made or returned in a criminal proceeding even if the adjudication of guilt is withheld or not entered. A certified copy of the final order or judgment of conviction or plea of guilty in this state or in another state constitutes conclusive evidence of the conviction. If an applicant is denied under this provision, the applicant shall be notified of the specific reasons for the denial.

f. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the licensee's profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

g. Willful or repeated violations of the provisions of this chapter.

277.10(2) *Suspension.* A suspension of a ~~certification~~ license may be imposed by the state fire marshal for any violation of these rules or Iowa Code ~~Supplement~~ chapter 100C or for a failure to meet any legal requirement to operate as an alarm system contractor or ~~installer~~ technician in this state. Failure to provide any notice to the state fire marshal as provided in these rules shall be grounds for suspension. An order of suspension shall specify the length of the suspension and shall specify that correction of all conditions which were a basis for the suspension is a condition of reinstatement of the ~~certification~~ license even after the period of the suspension.

277.10(3) *Revocation.* A revocation is a termination of a ~~certification~~ license. A ~~certification~~ license may be revoked by the state fire marshal for repeated violations or for a violation which creates an imminent danger to the safety or health of individuals protected by an alarm system incorrectly installed by a certified contractor or ~~installer~~ technician or when information comes to the attention of the state fire marshal which, if known to the state fire marshal when the application was being considered, would have resulted in denial of the ~~certification~~ license. A new application for ~~certification~~ licensure from a contractor or ~~installer~~ technician whose ~~certification~~ license had previously been revoked shall not be considered for a period of one year after the effective date of the revocation and, in any event, until every condition which was a basis for the revocation has been corrected. The state fire marshal may specify in the revocation order a longer period than one year before a new application for ~~certification~~ licensure may be considered. When a new application for ~~certification~~ licensure from a contractor or ~~installer~~ technician whose ~~certification~~ license was previously revoked is being considered, the applicant may be denied ~~certification~~ licensure based upon the same information which was the basis for revocation even after any such period established by the state fire marshal has expired.

277.10(4) *Disqualifications for criminal convictions limited.*

a. Notwithstanding any other provision of law to the contrary, a person's conviction of a crime may be grounds for the denial, revocation, or suspension of a license only if an unreasonable risk to public safety exists because the offense directly relates to the duties and responsibilities of the profession and the state fire marshal does not grant an exception pursuant to paragraph 277.10(4)*"d."*

b. The state fire marshal shall provide a list of the specific convictions that may disqualify an applicant from receiving a license. Any such offense shall be an offense that directly relates to the duties and responsibilities of the profession.

c. The state fire marshal shall not deny an application for a license on the basis of an arrest that was not followed by a conviction or based on a finding that an applicant lacks good character, suffers from moral turpitude, or on another similar basis.

d. The state fire marshal shall grant an exception to an applicant who would otherwise be denied a license due to a criminal conviction if the following factors establish by clear and convincing evidence that the applicant is rehabilitated and an appropriate candidate for licensure:

(1) The nature and seriousness of the crime for which the applicant was convicted.

(2) The amount of time that has passed since the commission of the crime. There is a rebuttable presumption that an applicant is rehabilitated and an appropriate candidate for licensure five years after the date of the applicant's release from incarceration, provided that the applicant was not convicted of sexual abuse in violation of Iowa Code section 709.4, a sexually violent offense as defined in Iowa Code section 229A.2, dependent adult abuse in violation of Iowa Code section 235B.20, a forcible felony as defined in Iowa Code section 702.11, or domestic abuse assault in violation of Iowa Code section 708.2A, and the applicant has not been convicted of another crime after release from incarceration.

(3) The circumstances relative to the offense, including any aggravating and mitigating circumstances or social conditions surrounding the commission of the offense.

(4) The age of the applicant at the time the offense was committed.

(5) Any treatment undertaken by the applicant.

(6) Whether a certificate of employability has been issued to the applicant pursuant to Iowa Code section 906.19.

(7) Any letters of reference submitted on behalf of the applicant.

(8) All other relevant evidence of rehabilitation and present fitness of the applicant.

e. An applicant may petition the state fire marshal in writing as specified in subrule 277.1(4) for a determination as to whether the applicant's criminal record will prevent the applicant from receiving a license. The state fire marshal shall issue such a determination within 30 days of receiving the petition. The state fire marshal shall determine whether an applicant's criminal record will prevent the applicant from receiving a license while determining whether to deny an applicant's application on the basis of an applicant's criminal conviction. The state fire marshal may charge a fee to recoup the costs of such a determination, provided that such fee shall not exceed $25.

f. When the state fire marshal denies an applicant a license solely or partly because of the applicant's prior conviction of a crime, the state fire marshal shall notify the applicant in writing of all of the following:

(1) The grounds for the denial of disqualification.

(2) That the applicant has the right to a hearing to challenge the state fire marshal's decision.

(3) The earliest date the applicant may submit a new application.

(4) That evidence of rehabilitation of the applicant may be considered upon reapplication.

g. A determination by the state fire marshal that an applicant's criminal conviction is specifically listed as a disqualifying conviction and the offense directly relates to the duties and responsibilities of the applicant's profession must be documented in written findings for each factor specified in paragraph 277.10(4)*"d"* sufficient for a review by a court.

h. In any administrative or civil hearing authorized by this subrule or Iowa Code chapter 17A, the state fire marshal shall carry the burden of proof on the question of whether the applicant's criminal offense directly relates to the duties and responsibilities of the profession for which the license is sought.

i. The state fire marshal may require an applicant with a criminal record to submit the applicant's complete criminal record detailing an applicant's offenses with an application. The state fire marshal may also require an applicant with a criminal record to submit a personal statement regarding whether each offense directly relates to the duties and performance of the applicant's occupation. For the purposes

of this subrule, "complete criminal record" includes the complaint and judgment of conviction for each offense of which the applicant has been convicted.

~~**277.10(4)**~~ **277.10(5)** *Civil penalties.* The state fire marshal may impose a civil penalty of up to $500 per day during which a violation has occurred and for every day until the violation is corrected. A civil penalty may be imposed in lieu of or in addition to a suspension or may be imposed in addition to a revocation. A civil penalty shall not be imposed in lieu of a revocation.

~~**277.10(5)**~~ **277.10(6)** *Suspension or revocation for nonpayment of child support.* The following procedures shall apply to actions taken by the department on a certificate of noncompliance received from the Iowa department of human services pursuant to Iowa Code chapter 252J:

a. The notice required by Iowa Code section 252J.8 shall be served upon the ~~certified~~ licensed contractor or ~~installer~~ technician by restricted certified mail, return receipt requested, or personal service in accordance with Iowa Rule of Civil Procedure 1.305. Alternatively, the contractor or ~~installer~~ technician may accept service personally or through authorized counsel.

b. The effective date of revocation or suspension of ~~certification~~ licensure of a contractor or ~~installer~~ technician, as specified in the notice required by Iowa Code section 252J.8, shall be 60 days following service upon the contractor or ~~installer~~ technician.

c. Contractors or ~~installers~~ technicians shall keep the state fire marshal informed of all court actions and all child support recovery unit actions taken under or in connection with Iowa Code chapter 252J and shall provide the state fire marshal with copies, within ~~7~~ seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 252J.9, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the child support recovery unit.

d. All applicable fees for an application or reinstatement must be paid by the contractor or ~~installer~~ technician before a ~~certificate~~ license will be issued, renewed, or reinstated after the state fire marshal has denied the issuance or renewal of a ~~certification~~ license or has suspended or revoked a ~~certification~~ license pursuant to Iowa Code chapter 252J.

e. In the event a contractor or ~~installer~~ technician files a timely district court action following service of a notice pursuant to Iowa Code sections 252J.8 and 252J.9, the state fire marshal shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the department to proceed. For the purpose of determining the effective date of revocation or suspension of the ~~certification~~ license, the department shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

f. Suspensions or revocations imposed pursuant to this subrule may not be appealed administratively within the department of public safety.

NOTE: The procedures established in subrule ~~277.9(5)~~ 277.10(6) implement the requirements of Iowa Code chapter 252J. The provisions of Iowa Code chapter 252J establish mandatory requirements for an agency which administers a ~~certification~~ licensing program, such as the one established in this chapter, and provide that actions brought under these provisions are not subject to contested case procedures established in Iowa Code chapter 17A, but must be appealed directly to district court.

277.10(7) *Suspension or revocation for nonpayment of debts owed state or local government.* The following procedures shall apply to actions taken by the state fire marshal on a certificate of noncompliance received from the Iowa department of revenue pursuant to Iowa Code chapter 272D:

a. The notice required by Iowa Code section 272D.3 shall be served upon the licensee by regular mail.

b. The effective date of revocation or suspension of a license, as specified in the notice required by Iowa Code section 272D.3, shall be 20 days following service upon the licensee.

c. Licensees shall keep the state fire marshal informed of all court actions and centralized collection unit actions taken under or in connection with Iowa Code chapter 272D and shall provide the state fire marshal with copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 272D.9, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the centralized collection unit.

d. All applicable fees for an application or reinstatement must be paid by the licensee before a license will be issued, renewed, or reinstated after the state fire marshal has denied the issuance or renewal of a license or has suspended or revoked a license pursuant to Iowa Code chapter 272D.

e. In the event the licensee files a timely district court action following service of a notice pursuant to Iowa Code section 272D.8, the state fire marshal shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the state fire marshal to proceed. For the purpose of determining the effective date of revocation or suspension of the license, the state fire marshal shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

f. Suspensions or revocations imposed pursuant to this subrule may not be appealed administratively to the state fire marshal or within the department of public safety.

NOTE: The procedures established in subrule 277.10(7) implement the requirements of Iowa Code chapter 272D. The provisions of Iowa Code chapter 272D establish mandatory requirements for an agency which administers a licensing program, such as the one established in this chapter, and provide that actions brought under these provisions are not subject to contested case procedures established in Iowa Code chapter 17A but must be appealed directly to district court.

~~**277.10(6)**~~ **277.10(8)** *Appeals.* Any denial, suspension, or revocation of a ~~certification~~ license, or any civil penalty imposed upon a ~~certified~~ licensed contractor or ~~installer~~ technician under this rule, other than one imposed pursuant to subrule ~~277.9(5)~~ 277.10(6) or 277.10(7), may be appealed by the contractor or ~~installer~~ technician within 14 days of receipt of the notice. Appeals of actions taken by the state fire marshal under this rule shall be to the commissioner of public safety and shall be treated as contested cases, following the procedures established in rules 661—10.301(17A) through 661—10.332(17A).

~~These rules are intended to implement Iowa Code Supplement chapter 100C as amended by 2008 Iowa Acts, House File 2547.~~

ITEM 18. Adopt the following **new** rule 661—277.11(272C):

661—277.11(272C) Veterans, military service members, and certain survivor beneficiaries. Any individual while serving honorably on federal active duty, state active duty, or national guard duty, as defined in Iowa Code section 29A.1, applying for licensure as an alarm system contractor or alarm system technician shall apply for licensure following 661—Chapter 278.

ITEM 19. Adopt the following **new** implementation sentence in **661—Chapter 277**:

These rules are intended to implement Iowa Code chapter 100C.

ARC 5269C

RACING AND GAMING COMMISSION[491]

Notice of Intended Action

Proposing rule making related to updates to racing and gaming rules and providing an opportunity for public comment

The Racing and Gaming Commission hereby proposes to amend Chapter 1, "Organization and Operation," Chapter 2, "Rule Making and Declaratory Orders," Chapter 5, "Track, Gambling Structure, and Excursion Gambling Boat Licensees' Responsibilities," Chapter 8, "Pari-Mutuel Wagering, Simulcasting and Advance Deposit Wagering," Chapter 11, "Gambling Games," Chapter 12, "Accounting and Cash Control," Chapter 13, "Sports Wagering," and Chapter 14, "Fantasy Sports Contests," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 99D.7, 99E.3 and 99F.4.

RACING AND GAMING COMMISSION[491](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 99D, 99E and 99F.

Purpose and Summary

Items 1 and 2 implement changes required by 2020 Iowa Acts, House File 2389.
Item 3 clarifies how sports wagering net receipts are reported.
Item 4 requires a disaster recovery plan for electronic wagering accounts.
Item 5 requires reserves for electronic wagering accounts.
Item 6 terminology is updated for a person under the age of 21.
Item 7 modifies the definition of "implement of gaming" to include electronic wagering accounts.
Item 8 implements new requirements for gambling games of chance.
Item 9 includes cashless wagers.
Item 10 adds a new definition of "electronic wagering account."
Item 11 clarifies requirements for operation of electronic wagering accounts.
Item 12 clarifies that notification to the Commission about certain incidents needs to be in writing.
Item 13 removes unnecessary language.
Item 14 restructures subrule 13.2(9) to account for the removal of paragraph 13.2(9)"a."
Item 15 clarifies that a vendor of retail sports wagering operations shall complete an audit.
Item 16 clarifies revenue reporting requirements.
Item 17 requires sports wagering advertisements to include a link to the rules for customers.
Item 18 addresses how revenue is allocated when in-person registration is not required for online sports wagering.
Item 19 clarifies segregation of funds for player accounts and operational funds.
Item 20 addresses how revenue is allocated when in-person registration is not required for online sports wagering.
Item 21 clarifies requirements for audits.
Item 22 authorizes a third individually branded website.
Item 23 clarifies when a fantasy sports contest is determined promotional in nature for tax reporting.
Item 24 clarifies revenue reporting requirements.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Commission no later than 4:30 p.m. on December 8, 2020. Comments should be directed to:

RACING AND GAMING COMMISSION[491](cont'd)

Barb Blake
Iowa Racing and Gaming Commission
1300 Des Moines Street
Des Moines, Iowa 50309
Email: barb.blake@iowa.gov

Public Hearing

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

December 8, 2020 9 a.m.	Commission Office, Suite 100 1300 Des Moines Street Des Moines, Iowa

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

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rule 491—1.8(17A,99D,99F) as follows:

491—1.8(17A,99D,99F) Granting of a waiver. For purposes of this rule, a waiver ~~or variance~~ means action by the commission that suspends in whole or in part the requirements or provisions of a rule as applied to an identified entity on the basis of the particular circumstances of that entity. ~~For simplicity, the term "waiver" shall include both a waiver and a variance.~~

1.8(1) to **1.8(19)** No change.

1.8(20) *Submission of waiver information.* All orders granting or denying a waiver petition shall be submitted to the legislative services agency through the Internet site established pursuant to Iowa Code section 17A.9A for such submissions within 60 days of the granting or denial of the petition.

~~**1.8(20)**~~ **1.8(21)** *Summary reports.* Semiannually, the commission shall prepare a summary report identifying 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 commission's actions on waiver requests. If practicable, the report shall detail the extent to which the granting of a waiver has affected the general applicability of the rule itself. 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.

~~**1.8(21)**~~ **1.8(22)** *Cancellation of a waiver.* A waiver issued by the commission pursuant to this rule may be withdrawn, canceled, or modified if, after appropriate notice and hearing, the commission issues an order finding any of the following:

a. to *c.* No change.

~~**1.8(22)**~~ **1.8(23)** *Violations.* Violation of a condition in a waiver order shall be treated as a violation of the particular rule for which the waiver was granted. As a result, the recipient of a waiver under this rule who violates a condition of the waiver may be subject to the same remedies or penalties as a person who violates the rule at issue.

~~**1.8(23)**~~ **1.8(24)** *Defense.* After the commission issues an order granting a waiver, 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.

~~**1.8(24)**~~ **1.8(25)** *Judicial review.* Judicial review of the commission's decision to grant or deny a waiver petition may be taken in accordance with Iowa Code chapter 17A.

ITEM 2. Adopt the following **new** subrule 2.18(5):

2.18(5) *Copies to administrative rules review committee.* Petitions for rule making and the disposition of such petitions shall be provided to the administrative rules review committee.

ITEM 3. Amend subparagraph **5.4(10)"d"(1)** as follows:

(1) A tax is imposed on the sports wagering net receipts received each fiscal year from sports wagering. "Sports wagering net receipts" means the gross receipts less winnings paid to wagerers on sports wagering on a cash accounting basis. Voided and canceled transactions are not considered receipts for the purpose of this calculation. Any offering used to directly purchase a wager shall be considered receipts for the purpose of this calculation.

ITEM 4. Adopt the following **new** paragraph **5.4(14)"e"**:

e. Any licensee that offers electronic wagering accounts, as defined by rule 491—12.1(99F), must prepare a disaster recovery plan that addresses off-site backups or equivalent. All disaster recovery plans shall incorporate industry standards for retention and storage of wagering account information and shall be subject to review as part of the network security risk assessment required by subrule 5.4(21).

ITEM 5. Adopt the following **new** subrule 5.4(22):

5.4(22) *Cashless wagering reserves.* A reserve in the form of cash or cash equivalents segregated from operational funds shall be maintained to cover the entirety of a licensee's electronic wagering account liability. The reserve shall equal or exceed the licensee's wagering account liability as of the last day in the previous quarter. An accounting of this reserve shall be made available for inspection to the commission upon request. The method of reserve shall be submitted to and approved by the administrator prior to implementation.

ITEM 6. Amend subrule 8.2(21) as follows:

8.2(21) ~~*Minors prohibited from*~~ *Underage wagering prohibited.* No ~~minor~~ person under the age of 21 shall be permitted by any licensed facility to purchase or cash a pari-mutuel ticket.

ITEM 7. Amend rule **491—11.1(99F)**, definition of "Implement of gambling," as follows:

"Implement of gambling" means any device or object determined by the administrator to directly or indirectly influence the outcome of a gambling game; collect wagering information while directly connected to a ~~slot machine~~ gambling game; facilitate the operation of an electronic wagering account as defined by rule 491—12.1(99F); or be integral to the conduct of a commission-authorized gambling game.

ITEM 8. Rescind subrule 11.5(4) and adopt the following **new** subrule in lieu thereof:

11.5(4) Gambling games of chance involving prizes awarded to participants through promotional activities at a facility may be conducted by the licensee providing the following:

a. Rules shall be made available to participants for review prior to registering. Rules shall include, at a minimum, all conditions registered players must meet to qualify to enter or participate in the event, available prizes or awards, and distribution of prizes or awards based on specific outcomes.

b. All gambling games are conducted in a fair and honest manner, and all rules are followed. Changes to rules shall not be made after participants have registered.

c. Results shall be made available for the registered players to review at the same location at which or in the same manner in which players registered. Results shall include, at a minimum, name of the event, date of the event, total number of entries, total prize pool, and amount paid for each winning category.

d. No entry fees shall be permitted.

e. All employees of the facility shall be prohibited from participation.

f. Such games shall be limited to participants 21 years of age or older.

g. There is compliance with all other federal, state and local laws and rules outside of the commission's jurisdiction.

h. Outcomes for gambling games shall be determined on the designated gaming floor, approved pursuant to 491—subrule 5.4(17), and outcomes shall be immediately or simultaneously displayed by a device or devices on the designated gaming floor.

i. In determining adjusted gross receipts pursuant to Iowa Code section 99F.11, the facility may consider all nonmonetary consideration expended by a participant and the nonmonetary consideration shall at least equal the value of prizes awarded.

ITEM 9. Amend paragraph **11.7(2)"a"** as follows:

a. All wagers at table games shall be made by placing gaming chips or coins on the appropriate areas of the layout <u>or by making a cashless wager using an approved wagering device</u>.

ITEM 10. Adopt the following **<u>new</u>** definition of "Electronic wagering account" in rule **491—12.1(99F)**:

"Electronic wagering account" means an individual player's account established by an authorized facility into which a player can deposit funds for the purpose of wagering on authorized gambling devices.

ITEM 11. Adopt the following **<u>new</u>** rule 491—12.16(99F):

491—12.16(99F) Electronic wagering accounts.

12.16(1) A facility may be allowed to offer on-premises electronic wagering accounts for patrons enrolled at that facility. Prior to offering any electronic wagering accounts, the facility shall submit additional internal controls, approved by a commission representative in accordance with rule 491—12.3(99F), that include the following for operation of an account:

a. Limitation of one active account per individual player.

b. Details on how a player will be identified and the methods required to access funds in the account.

c. Process to easily and prominently impose limitations for wagering parameters including, but not limited to, deposits and wagers. Upon receipt, any self-imposed limitations must be employed correctly and immediately as indicated to the player. No changes can be made reducing the severity of the self-imposed limitations for at least 24 hours. If the wagering account includes access to wagering account information, this process must include the capability to notify the player for self-imposed limitations.

12.16(2) The following requirements apply to the maintenance of funds associated with a player account:

a. A facility shall not have access to funds in a player's account, except to debit the account for a wager made by the player, to remit funds to the player at the player's request, or as otherwise authorized by the commission.

b. Methods of transfer or deposit into a player's account shall be limited to currency transactions with a casino cashier, or transfers from a participating gaming machine or designated kiosk, unless otherwise approved by the commission. Direct transfers utilizing registered bank accounts are permitted, but transfers to a player's wagering account shall not be allowed while a patron is on the designated gaming floor, as approved pursuant to 491—subrule 5.4(17).

c. Positive player identification, including any personal identification number (PIN) entry or other approved secured methods, must be completed before the withdrawal of any moneys held by the facility.

d. It shall not be possible to transfer funds between two player accounts.

e. A facility shall provide a transaction log or account statement history at no cost to players upon request. Information provided shall include sufficient information to allow players to reconcile the statement or record against their own financial records and shall identify any device where a transaction occurred.

f. A facility shall not charge any fees for the registration, operation or maintenance of wagering accounts including, but not limited to, processing any deposits or withdrawals.

12.16(3) Abandoned player accounts under this rule are subject to Iowa Code chapter 556. Player accounts are considered abandoned if no activity by the account holder has occurred for three years. Player activity includes any deposit or withdrawal, including activity initiated by the player to make a wager on a participating gaming device.

ITEM 12. Amend paragraph **13.2(7)"e"** as follows:

e. To report within 72 hours, in writing, any incident where an employee or customer is detected violating a provision of Iowa Code chapter 99F, a commission rule or order, or internal controls. In addition to the written report, the licensee or advance deposit sports wagering operator shall provide immediate notification to the commission if an incident involves employee theft, criminal activity, Iowa Code chapter 99F violations or sports wagering receipts.

ITEM 13. Rescind paragraph **13.2(9)"a."**

ITEM 14. Reletter paragraphs **13.2(9)"b"** to **"d"** as **13.2(9)"a"** to **"c."**

ITEM 15. Adopt the following **new** subrule 13.2(10):

13.2(10) *Annual audit.* If a vendor is conducting sports wagering for a casino licensee, an audit of the sports wagering operations for the vendor or parent company of the vendor shall be conducted by certified public accountants authorized to practice in the state of Iowa, and the audit shall be provided to the commission within 90 days of the vendor's fiscal year and meet the following conditions:

a. Inclusion of an internal control letter, audited balance sheet, and audited profit-and-loss statement including a breakdown of expenditures and subsidiaries of sports wagering activities.

b. Inclusion of a supplement schedule indicating financial activities on a calendar-year basis if the vendor's fiscal year does not correspond to the calendar year.

c. Inclusion of a supplement schedule for all Iowa locations in which the vendor operates.

d. Report of any material errors, irregularities that may be discovered during the audit, or notice of any audit adjustments.

e. Availability, upon request, of an engagement letter for the audit between the vendor or parent company of the vendor and the auditing firm.

ITEM 16. Adopt the following **new** subrule 13.2(11):

13.2(11) *Revenue reports.* Licensees and advance deposit sports wagering operators shall provide additional reports, as determined necessary by the administrator, that detail the revenue submission required by 491—paragraph 5.4(10)*"d."* Reports shall be provided to the commission in a format approved by the administrator. The administrator shall provide written notice to any licensee if additional reports are determined necessary. In addition, the administrator shall provide adequate time to any licensee if a report needs to be created to satisfy this requirement.

ITEM 17. Amend subrule 13.3(3) as follows:

13.3(3) *Sports promotional contests, tournaments, or promotional activities.* Sports promotional contests, tournaments, or promotional activities may be permitted by the licensee, vendor, or advance deposit sports wagering operator providing the following:

a. to *d.* No change.

e. Rules include terms and conditions. All emails or advertisements promoting contests, tournaments, and promotional activities shall include a link or other easily obtainable source that includes rules or terms and conditions.

~~*e.*~~ *f.* There is compliance with all other federal, state, and local laws and rules outside of the commission's jurisdiction.

ITEM 18. Amend subrule 13.5(2) as follows:

13.5(2) *Account registration.* A person must have an established account that identifies the licensee for which sports wagering net receipts are assigned pursuant to 491—subrule 5.4(10) in order to place advance deposit sports wagers. The process for establishing an account shall be approved by the

administrator. Prior to January 1, 2021, an account shall be established at the facility as required by Iowa Code section ~~99F.9(3A) with a process approved by the administrator~~ 99F.9(4). To establish an account, an application for an account shall be signed or otherwise authorized in a manner approved by the administrator and shall include the applicant's full legal name, principal residential address, date of birth, and any other information required by the administrator. The account registration process shall also include:

a. to *e.* No change.

f. An option for new customers on or after January 1, 2021. If an advance deposit sports wagering operator has more than one agreement with a licensee, then an option for new customers to select the licensee in which net receipts are assigned must be implemented by the operator.

ITEM 19. Adopt the following **new** paragraph **13.5(4)"h"**:

h. An advance deposit sports wagering operator or licensee shall segregate player account funds from operational funds.

ITEM 20. Adopt the following **new** paragraph **13.5(5)"e"**:

e. Inclusion of a supplemental schedule for Iowa operations. A supplemental schedule shall include a breakdown of advance deposit sports wagering activities by each Iowa casino in which there is an agreement. The supplemental schedule provided to satisfy this requirement may be unaudited; however, the top financial officer of the company shall provide a statement attesting to the accuracy of the information provided to the commission.

ITEM 21. Adopt the following **new** subrule 13.5(7):

13.5(7) *Expiration or termination of an Iowa Code section 99F.7A operating agreement.* In the event an advance deposit sports wagering operating agreement between a licensee under Iowa Code section 99F.7A and another entity expires, terminates, or is no longer valid, notice of termination must be given to the commission and all customers affiliated with the licensee. A customer shall be given an opportunity to close an account. If another individually branded website is available in the state of Iowa connected to the customer's account and the customer does not want to close the account, the customer shall be given the option to select another licensee to which net receipts are assigned.

ITEM 22. Amend paragraph **13.7(2)"c"** as follows:

c. Disclosure of operating agreements for up to two, or three if authorized by the commission, individually branded internet sites to conduct advance deposit wagering for the facility.

ITEM 23. Amend subrule 14.6(1) as follows:

14.6(1) The licensee shall pay a tax rate pursuant to Iowa Code section 99E.6 on adjusted revenue from fantasy sports contests. "Adjusted revenue" means the amount equal to the total charges and fees collected from all participants entering the fantasy sports contest less winnings paid to participants in the contest, multiplied by the location percentage defined in Iowa Code section 99E.1. Charges and fees returned to participants due to a participant withdrawing the participant's entry from a fantasy sports contest shall not be considered when calculating the adjusted revenue. Contests resulting in negative adjusted revenue shall be considered promotional in nature and cannot be used to offset taxes owed pursuant to Iowa Code section 99E.6.

ITEM 24. Adopt the following **new** subrule 14.6(6):

14.6(6) Fantasy sports operators shall provide additional reports, as determined necessary by the administrator, that detail the taxes collected in accordance with this rule. Reports shall be provided to the commission in a format approved by the administrator. The administrator shall provide written notice to any licensee if additional reports are determined necessary. In addition, the administrator shall provide adequate time to any licensee if a report needs to be created to satisfy this requirement.

ARC 5272C

REVENUE DEPARTMENT[701]

Notice of Intended Action

Proposing rule making related to the collection of court debt and providing an opportunity for public comment

The Revenue Department hereby proposes to adopt new Chapter 155 "Collection of Court Debt," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 421.14 and 602.8107(3)"a"(2) as enacted by 2020 Iowa Acts, Senate File 457, section 87.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 602.8107(3)"a"(2) as enacted by 2020 Iowa Acts, Senate File 457, section 87.

Purpose and Summary

This proposed rule making is intended to implement statutory changes to the collection of court debt. Specifically, this rule making sets forth the Department's imposition of a fee to reflect the cost of processing for the collection of court debt under Iowa Code section 602.8107(3) as amended by 2020 Iowa Acts, Senate File 457, division XIV.

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).

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on December 8, 2020. Comments should be directed to:

Nick Behlke
Iowa Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306
Phone: 515.336.9025
Email: nick.behlke@iowa.gov

REVENUE DEPARTMENT[701](cont'd)

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held via Google Meet at the link below. Participants may also call in via phone at the following phone number: +1 402.624.0127. When prompted, enter PIN: 780 722 322#. Please mute your phones or microphones upon entering the meeting.

December 8, 2020 1 to 2 p.m.	Google Meet Location meet.google.com/dhy-xxna-fug

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

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Adopt the following **new** 701—Chapter 155:

CHAPTER 155
COLLECTION OF COURT DEBT

701—155.1(602) Fee for collection of court debt.

155.1(1) A fee of 15 percent of the amount of each court debt is imposed on each court debt that has been assigned to the department for collection under Iowa Code section 602.8107(3). In the event a payment is returned as dishonored for any reason, an additional fee shall be imposed in the amount of 15 percent of the amount of the dishonored payment. The total balance of the court debt shall be adjusted to include the fee. Notwithstanding the foregoing, no fee shall be imposed on any amount of a court debt that is collected by setoff or is reduced or adjusted by the court as a result of community service, a reasonable ability to pay determination, or any other reason.

155.1(2) The fee imposed by this rule shall be payable to the department to reimburse the department's cost of processing.

This rule is intended to implement Iowa Code section 602.8107 as amended by 2020 Iowa Acts, Senate File 457.

TREASURER OF STATE

Notice—Public Funds Interest Rates

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions Katie Averill, Superintendent of Banking Jeff Plagge, and Auditor of State Rob Sand has established today the following rates of interest for public obligations and special assessments. The usury rate for November is 2.75%.

TREASURER OF STATE(cont'd)

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

74A.2 Unpaid Warrants	Maximum 6.0%
74A.4 Special Assessments	Maximum 9.0%

RECOMMENDED Rates for Public Obligations (74A.3) and School District Warrants (74A.7). A rate equal to 75% of the Federal Reserve monthly published indices for U.S. Government securities of comparable maturities. All Financial Institutions as defined by Iowa Code section 12C.1 are eligible for public fund deposits as defined by Iowa Code section 12C.6A.

The rate of interest has been determined by a committee of the state of Iowa to be the minimum interest rate that shall be paid on public funds deposited in approved financial institutions. To be eligible to accept deposits of public funds of the state of Iowa, a financial institution shall demonstrate a commitment to serve the needs of the local community in which it is chartered to do business. These needs include credit services as well as deposit services. All such financial institutions are required to provide the committee with a written description of their commitment to provide credit services in the community. This statement is available for examination by citizens.

New official state interest rates, effective November 10, 2020, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

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

These are minimum rates only. All time deposits are four-tenths of a percent below average rates. Public body treasurers and their depositories may negotiate a higher rate according to money market rates and conditions.

Inquiries may be sent to Michael L. Fitzgerald, Treasurer of State, State Capitol, Des Moines, Iowa 50319.

USURY

In accordance with the provisions of Iowa Code section 535.2, subsection 3, paragraph "a," the Superintendent of Banking has determined that the maximum lawful rate of interest shall be:

December 1, 2019 — December 31, 2019	3.75%
January 1, 2020 — January 31, 2020	3.75%
February 1, 2020 — February 29, 2020	3.50%
March 1, 2020 — March 31, 2020	3.75%
April 1, 2020 — April 30, 2020	3.50%
May 1, 2020 — May 31, 2020	2.75%
June 1, 2020 — June 30, 2020	2.75%

USURY(cont'd)

July 1, 2020 — July 31, 2020	2.75%
August 1, 2020 — August 31, 2020	2.75%
September 1, 2020 — September 30, 2020	2.50%
October 1, 2020 — October 31, 2020	2.75%
November 1, 2020 — November 30, 2020	2.75%
December 1, 2020 — December 31, 2020	2.75%

ARC 5281C

UTILITIES DIVISION[199]

Notice of Intended Action

Proposing rule making related to regulation of municipal electric utilities and electric cooperatives and providing an opportunity for public comment

The Utilities Board hereby proposes to adopt new Chapter 27, "Regulation of Municipal Electric Utilities and Electric Cooperatives 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 section 476.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 476.1A and 476.1B.

Purpose and Summary

The purpose of this proposed rule making is to adopt a separate chapter of Utilities Board rules that create requirements to implement Board jurisdiction over electric cooperatives and municipal electric utilities. Current Board rules over these utilities are in 199—Chapter 20, and the electric cooperatives and municipal electric utilities requested that the Board adopt a separate chapter.

On October 30, 2020, the Board issued an order commencing rule making. The order is available on the Board's electronic filing system, efs.iowa.gov, under Docket No. RMU-2020-0027.

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 amendment because the Board has a general waiver provision in rule 199—1.3(17A,474,476) that provides procedures for requesting a waiver of the rules in this chapter.

Public Comment

Any interested person may submit written 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 December 8, 2020. Comments should be directed to:

UTILITIES DIVISION[199](cont'd)

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

Public Hearing

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

February 4, 2021 9 a.m. to 12 noon	Board Hearing Room 1375 East Court Avenue Des Moines, Iowa

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

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

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** 199—Chapter 27:

CHAPTER 27
REGULATION OF MUNICIPAL ELECTRIC UTILITIES AND ELECTRIC COOPERATIVES UNDER IOWA CODE CHAPTER 476

199—27.1(476) General information. Iowa Code section 476.2(1) provides that the Iowa utilities board shall have authority to 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 provided for in Iowa Code chapter 476 or in the board's rules.

27.1(1) *Application of rules.* The rules shall apply to electric cooperatives and municipal electric utilities operating within the state of Iowa subject to Iowa Code sections 476.1A and 476.1B, 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 that are in conflict with these rules.

27.1(2) *Regulation of electric cooperatives.* Iowa Code section 476.1A provides that electric cooperatives are not subject to the regulation of the board for rates and services, except for regulatory action pertaining to the following:

a. Assessment of fees for the support of the board and the office of consumer advocate.

b. Safety and engineering standards for equipment, operations, and procedures.

c. Assigned service areas.

d. Pilot projects of the board.

e. Assessment of fees for the support of the Iowa energy center and the center for global and regional environmental research.

f. Filing of alternative energy purchase program plans with the board, and offering such programs to customers, pursuant to Iowa Code section 476.47.

g. Disconnection of service and winter moratorium pursuant to Iowa Code sections 476.20(1) through 476.20(4).

h. Discrimination against renewable energy pursuant to Iowa Code section 476.21.

i. Civil penalties pursuant to Iowa Code section 476.51.

j. Annual energy costs to be provided pursuant to Iowa Code section 476.56.

k. Energy-efficient lighting pursuant to Iowa Code section 476.62.

l. Customer contribution fund pursuant to Iowa Code section 476.66.

m. Prohibition against the making or granting of any unreasonable preferences or advantages as to rates or services to any person or subjecting any person to any unreasonable prejudice or disadvantage.

27.1(3) *Regulation of municipal electric utilities.* Iowa Code section 476.1B provides that municipal electric utilities are not subject to regulation by the board under Iowa Code chapter 476 unless otherwise specifically provided by statute, except for regulatory action pertaining to the following:

a. Assessment of fees for the support of the board and the office of consumer advocate.

b. Safety standards.

c. Assigned areas of service as set forth in Iowa Code sections 476.22 through 476.26.

d. Civil penalties pursuant to Iowa Code section 476.51.

e. Disconnection of service in Iowa Code sections 476.20(1) through 476.20(4).

f. Encouragement of alternative energy production facilities pursuant to Iowa Code sections 476.41 through 476.45.

g. Annual energy costs to be provided pursuant to Iowa Code section 476.56.

h. Energy-efficient lighting pursuant to Iowa Code section 476.62.

i. Customer contribution fund pursuant to Iowa Code section 476.66.

j. Assessment of fees for the support of the Iowa energy center and the center for global and regional environmental research.

k. Electric power agencies, as defined in Iowa Code chapter 28F and section 390.9, that include as a member a city or municipally owned utility that builds transmission facilities after July 1, 2001, are subject to applicable transmission rules or standards adopted by the board.

l. Filing alternative energy purchase program plans with the board, and offering such programs to customers pursuant to Iowa Code section 476.47.

27.1(4) *Definitions.* The following words and terms, when used in these rules, shall have the meanings indicated below:

"Board" means the utilities board.

"Capacity" means the instantaneous rate at which energy can be delivered, received, or transferred, measured in kilowatts.

"Complaint," as used in these rules, means a statement or question by any person, whether a utility customer or not, alleging a wrong, grievance, injury, dissatisfaction, illegal action or procedure, dangerous condition or action, or obligation of an electric cooperative or municipal electric utility.

"Customer" means any person, firm, association, or corporation; any agency of the federal, state or local government; or any legal entity responsible by law for payment for the electric service or heat from the electric cooperative or municipal electric utility.

"Delinquent" or *"delinquency"* means an account for which a service bill or service payment agreement has not been paid in full on or before the last day for timely payment.

"Distribution line" means any single or multiphase electric power line operating at nominal voltage in either of the following ranges: 2,000 to 26,000 volts between ungrounded conductors or 1,155 to 15,000 volts between grounded and ungrounded conductors, regardless of the functional service provided by the line.

"Electric plant" includes all real estate, fixtures and property owned, controlled, operated or managed in connection with or to facilitate production, generation, transmission, or distribution, in providing electric service or heat by an electric utility.

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"Electric service" means furnishing electricity to the public for compensation for use as heat, light, power, or energy.

"Energy" means electric energy measured in kilowatt hours.

"Engineering standards" means standards adopted by the American National Standards Institute (ANSI), or the Institute of Electrical and Electronics Engineers (IEEE), Rural Utilities Service (RUS), or similar type of engineering organizations or engineering standards adopted by the board.

"Major event" will be declared whenever extensive physical damage to transmission and distribution facilities has occurred within an electric cooperative and municipal electric utility's operating area due to unusually severe and abnormal weather or event and:

1. Wind speed exceeds 90 mph for the affected area, or
2. One-half inch of ice is present and wind speed exceeds 40 mph for the affected area, or
3. Ten percent of the affected area total customer count is incurring a loss of service for a length of time to exceed five hours, or
4. 20,000 customers in a metropolitan area are incurring a loss of service for a length of time to exceed five hours.

"Meter" means, unless otherwise qualified, a device that measures and registers the integral of an electrical quantity with respect to time.

"Power" means electric power measured in kilowatts.

"Secondary line" means any single or multiphase electric power line operating at nominal voltage less than either 2,000 volts between ungrounded conductors or 1,155 volts between grounded and ungrounded conductors, regardless of the functional service provided by the line.

"Service limitation" means the establishment of a limit on the amount of power that may be consumed by a residential customer through the installation of a service limiter device on the customer's meter.

"Tariff" means, for the purposes of this chapter, the service classifications, rules, procedures, and policies filed with and approved by the board.

"Timely payment" means a payment on a customer's account made on or before the date shown on a current bill for service, or on a form which records an agreement between the customer and a utility for a series of partial payments to settle a delinquent account, as the date which determines application of a late payment charge to the current bill or future collection efforts.

"Transmission line" means any single or multiphase electric power line operating at nominal voltages at or in excess of either 69,000 volts between ungrounded conductors or 40,000 volts between grounded and ungrounded conductors, regardless of the functional service provided by the line.

27.1(5) *Abbreviations.* The following abbreviations may be used in this chapter where appropriate:

ANSI—American National Standards Institute, www.ansi.org.

IEEE—Institute of Electrical and Electronics Engineers, www.ieee.org.

NFPA—National Fire Protection Association, www.nfpa.org.

RUS—United States Department of Agriculture Rural Utilities Service, www.rd.usda.gov/about-rd/agencies/rural-utilities-service.

27.1(6) *Electric cooperative service rules tariffs.* Electric cooperatives subject to the board's jurisdiction under Iowa Code section 476.1A shall maintain tariffs which are consistent with the rules in this chapter and shall file those tariffs with the board for approval.

a. Electric cooperatives shall not be obligated to file those portions of their tariff or tariff pages regarding matters over which the board does not have jurisdiction with strikethroughs for the language deleted and underlining of the language that is added.

b. If an electric cooperative chooses to file a revised tariff with provisions which are not subject to board jurisdiction, the electric cooperative shall designate the jurisdictional provisions either in the cover letter or by strikeouts of deleted language and underlining of new language.

c. An electric cooperative association may file a model tariff for board approval that may be adopted by an electric cooperative with any revisions the electric cooperative proposes to the model tariff.

d. An electric cooperative may file a revised tariff adopting the model tariff approved by the board. The electric cooperative shall include the docket number and date of board approval with the revised tariff.

e. Electric cooperatives shall make tariffs filed with the board available to all customers.

27.1(7) *Municipal electric utilities service rules.* Municipal electric utilities shall not be required to file tariffs with the board implementing the provisions in this chapter; however, municipal utilities shall adopt rules or other legally enforceable provisions that are consistent with the provisions in this chapter. Municipal electric utilities shall make rules or other legally enforceable provisions implementing the requirements of this chapter available to all customers.

199—27.2(476) Assigned area of service.

27.2(1) *Service areas.* Service areas are defined by the boundaries on service area maps. Electronic maps are available for viewing during regular business hours at the board's offices. Maps are also available for viewing on the board's website. These service area maps are the official electric service territory maps as required pursuant to Iowa Code section 476.24.

27.2(2) *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.

b. Any electric cooperative or municipal electric utility 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, (3) a justification for the proposed service area modification, and (4) an electronic file, in a format designated by the board, of the proposed service area boundaries. 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 27.2(4)*"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. An answer to a petition for a service area modification shall comply with 199—subrule 7.9(2).

e. Electric cooperatives and municipal electric utilities may agree to service territory 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.

27.2(3) *Certificate of authority.* Any electric cooperative or municipal electric utility requesting a service territory modification pursuant to subrule 27.2(2) which would result in service to a customer by a public utility other than the public utility currently serving the customer shall also petition the board for a certificate of authority under Iowa Code section 476.23. The electric cooperative or municipal electric utility shall pay the party currently serving the customer a reasonable price for the facilities serving the customer.

27.2(4) *Maps.*

a. Each electric cooperative and municipal electric utility shall maintain a current map or set of maps showing the physical location of electric lines, stations, and electric transmission facilities for its service areas. The maps shall include the exact location of the following:

(1) Generating stations, with capacity designation.

(2) Purchased power supply points, with maximum contracted capacity designation.

(3) Purchased power metering points if located at other than power delivery points.

(4) Transmission lines, with size and type of conductor designation and operating voltage designation.

(5) Transmission-to-transmission voltage transformation substations, with transformer voltage and capacity designation.

(6) Transmission-to-distribution voltage transformation substations, with transformer voltage and capacity designation.

(7) Distribution lines, with size and type of conductor designation, phase designation and voltage designation.

(8) All points at which transmission, distribution or secondary lines of the utility cross Iowa state boundaries.

(9) All current information required in Iowa Code section 476.24(1).

(10) All county boundaries and county names.

(11) Natural and artificial lakes which cover more than 50 acres and all rivers.

(12) Any additional information required by the board.

b. All maps, except those deemed confidential by the board, shall be available for examination at the designated offices of the electric cooperative or municipal electric utility during regular office hours. The maps shall be drawn with clean, uniform lines to a scale of one inch per mile. A large scale shall be used where it is necessary to clarify areas where there is a heavy concentration of facilities. All cartographic details shall be clean cut, and the background shall contain little or no coloration or shading.

199—27.3(476) Customer relations.

27.3(1) *Notification to customers by bill insert.*

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)725-7300, 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 shall be provided to customers at least annually. Any utility which does not use the standard statement described in this subrule shall file its proposed statement for board 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 required in paragraph 27.3(1)*"a."*

27.3(2) *Payment agreements.*

a. Availability of a first payment agreement. When a residential customer cannot pay in full a delinquent bill for utility service or has an outstanding debt to the electric cooperative or municipal electric utility for residential utility service and is not in default of a payment agreement with the electric cooperative or municipal electric utility, an electric cooperative or municipal electric utility shall offer the customer an opportunity to enter into a reasonable payment agreement. The offer of a payment agreement shall be made prior to disconnection. The electric cooperative or municipal electric utility is not required to offer a customer who has been disconnected from service a payment agreement consistent with these rules, unless the utility did not comply with these rules prior to disconnection.

b. Reasonableness. Whether a payment agreement is reasonable will be determined by considering the current household income, ability to pay, payment history including prior defaults on similar agreements, the size of the bill, the amount of time and the reasons why the bill has been outstanding, and any special circumstances creating extreme hardships within the household. The electric cooperative or municipal electric utility may require the person to confirm financial difficulty with an acknowledgment from the department of human services or another agency.

c. Terms of payment agreements.

(1) First payment agreement. The electric cooperative or municipal electric utility shall offer the following conditions to customers who have received a disconnection notice and are not in default of a payment agreement:

1. For customers who received a disconnection notice in conformance with these rules, the electric cooperative or municipal electric utility shall offer an agreement with at least 12 even monthly payments. The utility shall inform customers they may pay off the delinquency early without incurring any prepayment penalties. 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, and the customer will not be required to pay a portion of the delinquent amount to enter into a payment agreement.

2. The agreement shall also include a provision for payment of the current amount owed by the customer.

3. The electric cooperative or municipal electric utility may also require the customer to enter into a budget billing plan to pay the current bill.

4. When the customer makes the agreement in person, a signed copy of the agreement shall be provided to the customer.

5. The electric cooperative or municipal electric utility may offer the customer the option of making the agreement over the telephone or through electronic transmission.

6. When the customer makes the agreement over the telephone or through electronic transmission, the electric cooperative or municipal electric utility shall provide to the customer a written document reflecting the terms and conditions of the agreement within three days of the date the parties entered into the oral agreement or electronic agreement.

7. The document will be considered provided to the customer when addressed to the customer's last-known address and deposited in the U.S. mail with postage paid. If delivery is by other than U.S. mail, the document shall be considered provided to the customer when delivered to the last-known address of the person responsible for payment for the service.

8. The document shall state that unless the customer notifies the utility otherwise within ten days from the date the document is provided, it will be deemed that the customer accepts the terms as stated in the written document. The document stating the terms and conditions of the agreement shall include the address and a toll-free or collect telephone number where a qualified representative can be reached.

9. Once the first payment required by the agreement is made by the customer or on behalf of the customer, the oral or electronic agreement is deemed accepted by the customer.

10. Each customer entering into a first payment agreement shall be granted at least one late payment that is four days or less beyond the due date for payment, and the first payment agreement shall remain in effect.

11. The initial payment is due on the due date for the next regular bill.

(2) Second payment agreement. The utility shall offer a second payment agreement to a customer who is in default of a first payment agreement if the customer has made at least two consecutive full payments under the first payment agreement.

1. The second payment agreement shall be for a term at least as long as the term of the first payment agreement.

2. The customer shall be required to pay for current service in addition to the monthly payments under the second payment agreement and may be required to make the first payment up front as a condition of entering into the second payment agreement.

3. The electric cooperative or municipal electric utility may also require the customer to enter into a budget billing plan to pay the current bill.

(3) Additional payment agreements. The electric cooperative or municipal electric utility may offer additional payment agreements to the customer.

d. Refusal by electric cooperative or municipal electric utility. A customer may offer the electric cooperative or municipal electric utility a proposed payment agreement. If the electric cooperative or municipal electric utility and the customer do not reach an agreement, the electric cooperative or municipal electric utility may refuse the offer orally, but the electric cooperative or municipal electric utility must provide a written refusal to the customer, stating the reason for the refusal, within three days of the oral notification. The written refusal shall be considered provided to the customer when addressed to the customer's last-known address and deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the written refusal shall be considered provided to the customer when handed to the customer or when delivered to the last-known address of the person responsible for the payment for the service.

e. *Customer request for assistance.* A customer may ask the board for assistance in working out a reasonable payment agreement. The request for assistance must be made to the board within ten days after the written refusal is provided. During the review of this request, the utility shall not disconnect the service.

27.3(3) *Bill payment terms.* The bill shall be considered provided to the customer when deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the bill shall be considered provided when delivered to the last-known address of the party responsible for payment. There shall not be less than 20 days between the providing of a bill and the date by which the account becomes delinquent. Bills for customers on more frequent billing intervals may not be considered delinquent less than 5 days from the date the bill is provided, and a late payment charge may not be assessed if payment is received within 20 days of the date the bill is provided.

a. The date of delinquency for all residential customers or other customers whose consumption is less than 3,000 kWh per month shall be changeable for cause; such as, but not limited to, 15 days from the approximate date each month upon which income is received by the person responsible for payment. In no case, however, shall the utility be required to delay the date of delinquency more than 30 days beyond the date of preparation of the previous bill.

b. In any case where net and gross amounts are billed to customers, the difference between net and gross is a late payment charge and is valid only when part of a delinquent bill payment. A utility's late payment charge shall not exceed 1.5 percent per month of the past due amount. No collection fee may be levied in addition to this late payment charge. This rule does not prohibit cost-justified charges for disconnection and reconnection of service.

c. If the customer makes partial payment in a timely manner, and does not designate the service or product for which payment is made, the payment shall be credited pro rata between the bill for utility services and related taxes.

d. Each account shall be granted not less than one complete forgiveness of a late payment charge each calendar year. The utility's rules shall be definitive that on one monthly bill in each period of eligibility, the utility will accept the net amount of such bill as full payment for such month after expiration of the net payment period. The rules shall state how the customer is notified that the eligibility has been used. Complete forgiveness prohibits any effect upon the credit rating of the customer or collection of late payment charge.

27.3(4) *Customer records.* The electric cooperative or municipal electric utility shall retain records not less than five years. Records for each customer shall show where applicable:

a. kWh meter reading.

b. kWh consumption.

c. kW meter reading.

d. kW measured demand.

e. kW billing demand.

f. Total amount of bill.

27.3(5) *Adjustment of bills for meter error.*

a. Electric cooperatives and municipal electric utilities shall establish meter testing standards and procedures for customers who have complaints about the accuracy of the customer's meter. The meter testing standards shall be made available to a customer upon request.

b. Recalculation of bills based upon failure of a meter to register in compliance with the meter testing standards established by the electric cooperative or municipal electric utility shall be on the basis of actual monthly consumption of the customer for the most recent 24 months. When the average error cannot be determined by test because of failure of part or all of the metering equipment, it shall be permissible to use the registration of check metering installations, if any, or to estimate the quantity of energy consumed based on available data. The customer must be advised of the failure and of the basis for the estimate of quantity billed.

199—27.4(476) Disconnection of service.

27.4(1) *Disconnection procedures and notice.* Electric cooperatives and municipal electric utilities shall only disconnect service to customers in compliance with the following procedure and requirements:

a. Service may be disconnected without notice:

(1) In the event of a condition on the customer's premises determined by the utility to be hazardous.

(2) In the event of customer use of equipment in a manner which adversely affects the utility's equipment or the utility's service to others.

(3) In the event of tampering with the equipment furnished and owned by the utility. For the purposes of this subrule, a broken or absent meter seal alone shall not constitute tampering.

(4) In the event of unauthorized use.

b. The electric cooperative or municipal electric utility shall give written notice of pending disconnection except as specified in paragraph 27.4(1)*"a."* The notice shall set forth the reason for the notice and the final date by which the account is to be settled or specific action taken. The notice shall be considered provided to the customer when addressed to the customer's last-known address and deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the notice shall be considered provided when delivered to the last-known address of the person responsible for payment for the service. The date for disconnection of service shall be not less than 12 days after the notice is provided. The date for disconnection of service for customers on shorter billing intervals shall not be less than 24 hours after the notice is posted at the service premises.

c. One written notice, including all reasons for the notice, shall be given where more than one cause exists for disconnection of service. In determining the final date by which the account is to be settled or other specific action taken, the days of notice for the causes shall be concurrent.

d. Service may be disconnected after proper notice:

(1) For violation of or noncompliance with the utility's rules.

(2) For failure of the customer to furnish the service equipment, permits, certificates, or rights-of-way which are specified to be furnished, in the utility's rules filed with the board, as conditions of obtaining service, or for the withdrawal of that same equipment, or for the termination of those same permissions or rights, or for the failure of the customer to fulfill the contractual obligations imposed as conditions of obtaining service by any contract filed with and subject to the regulatory authority of the board.

(3) For failure of the customer to permit the utility reasonable access to the utility's equipment.

e. Service may be disconnected after proper notice for nonpayment of a bill or deposit provided that the electric cooperative or municipal electric utility has complied with the following provisions:

(1) Given the customer a reasonable opportunity to dispute the reason for the disconnection or refusal.

(2) Given the customer, and any other person or agency designated by the customer, written notice that the customer has at least 12 days in which to make settlement of the account to avoid disconnection and a written summary of the rights and responsibilities set out in subrule 27.4(2). Customers billed more frequently than monthly shall be given posted written notice that they have 24 hours to make settlement of the account to avoid disconnection and a written summary of the rights and responsibilities. All written notices shall include a toll-free or collect telephone number where a utility representative qualified to provide additional information about the disconnection can be reached. Each electric cooperative or municipal electric utility representative must provide the representative's name and have immediate access to current, detailed information concerning the customer's account and previous contacts with the utility.

(3) If the electric cooperative or municipal electric utility has adopted a service limitation policy, the following paragraph shall be appended to the end of the standard form of the summary of rights and responsibilities:

Service limitation: We have adopted a limitation of service policy for customers who otherwise could be disconnected. Contact our business office for more information or to learn if you qualify.

(4) When disconnecting service to a residence, made a diligent attempt to contact, by telephone or in person, the customer responsible for payment for service to the residence to inform the customer of the pending disconnection and the customer's rights and responsibilities. If the attempt at customer

contact fails, the premises shall be posted at least one day prior to disconnection with a notice informing the customer of the pending disconnection and a copy of the rights and responsibilities available to avoid disconnection.

If an attempt at personal or telephone contact of a customer occupying a rental unit has been unsuccessful, the electric cooperative or municipal electric utility shall make a diligent attempt to contact the landlord of the rental unit, if known, to determine if the customer is still in occupancy and, if so, the customer's present location. The landlord shall also be informed of the date when service may be disconnected. The electric cooperative or municipal electric utility shall make a diligent attempt to inform the landlord at least 48 hours prior to disconnection of service to a tenant.

If the disconnection will affect occupants of residential units leased from the customer, the premises of any building known by the electric cooperative or municipal electric utility to contain residential units affected by disconnection shall be posted at least two days prior to disconnection, with a notice informing any occupants of the date when service will be disconnected and the reasons for the disconnection.

If the customer has received notice of disconnection and has a dispute concerning a bill for electric service, the electric cooperative or municipal electric utility may require the customer to pay a sum of money equal to the amount of the undisputed portion of the bill pending settlement and thereby avoid disconnection of service. An electric cooperative or municipal electric utility shall delay disconnection for nonpayment of the disputed bill for up to 45 days after the providing of the bill if the customer pays the undisputed amount. The 45 days shall be extended by up to 60 days if requested of the utility by the board in the event the customer files a written complaint with the board in compliance with 199—Chapter 6.

f. Disconnection of a residential customer may take place only between the hours of 6 a.m. and 2 p.m. on a weekday and not on weekends or holidays. If a disconnected customer makes payment or other arrangements during normal business hours, or by 7 p.m. for utilities permitting such payment or other arrangements after normal business hours, all reasonable efforts shall be made to reconnect the customer that day. If a disconnected customer makes payment or other arrangements after 7 p.m., all reasonable efforts shall be made to reconnect the customer not later than 11 a.m. the next day.

g. A disconnection may not take place where electricity is used as the only source of space heating or to control or operate the only space heating equipment at a residence when the actual temperature or the 24-hour forecast of the National Weather Service for the residence's area is predicted to be 20 degrees Fahrenheit or colder. If the electric cooperative or municipal electric utility has properly posted a disconnect notice but is precluded from disconnecting service because of severe cold weather, the utility may immediately proceed with appropriate disconnection procedures, without further notice, when the temperature in the residence's area rises above 20 degrees Fahrenheit and is forecasted to remain above 20 degrees Fahrenheit for at least 24 hours, unless the customer has paid in full the past due amount or is otherwise entitled to postponement of disconnection.

h. Disconnection of a residential customer shall be postponed if the disconnection of service would present an especial danger to the health of any permanent resident of the premises.

(1) An especial danger to health is indicated if a person appears to be seriously impaired and may, because of mental or physical problems, be unable to manage the person's own resources, to carry out activities of daily living or to be protected from neglect or hazardous situations without assistance from others. Indicators of an especial danger to health include but are not limited to: age, infirmity, or mental incapacitation; serious illness; physical disability, including blindness and limited mobility; and any other factual circumstances which indicate a severe or hazardous health situation.

(2) The electric cooperative or municipal electric utility may require written verification of the especial danger to health by a physician or a public health official, including the name of the person endangered; a statement that the person is a resident of the premises in question; the name, business address, and telephone number of the certifying party; the nature of the health danger; and approximately how long the danger will continue. Initial verification by the verifying party may be by telephone if written verification is forwarded to the utility within five days.

(3) Verification shall postpone disconnection for 30 days. In the event service is terminated within 14 days prior to verification of illness by or for a qualifying resident, service shall be restored to that

residence if a proper verification is thereafter made in accordance with the foregoing provisions. If the customer does not enter into a reasonable payment agreement for the retirement of the unpaid balance of the account within the first 30 days and does not keep the current account paid during the period that the unpaid balance is to be retired, the customer is subject to disconnection.

i. Winter energy assistance (November 1 through April 1). If the electric cooperative or municipal electric utility is informed that the customer's household may qualify for winter energy assistance or weatherization funds, there shall be no disconnection of service for 30 days from the date the electric cooperative or municipal electric utility is notified to allow the customer time to obtain assistance. Disconnection shall not take place from November 1 through April 1 for a resident who is a head of household and who has been certified to the electric cooperative or municipal electric utility by the community action agency as eligible for either the low-income home energy assistance program or the weatherization assistance program. An electric cooperative or municipal electric utility may develop an incentive program to delay disconnection on April 1 for customers who make payments throughout the November 1 through April 1 period. All such incentive programs shall be set forth in tariffs approved by the board.

j. Military service deployment. If the electric cooperative or municipal electric utility is informed that one of the heads of household as defined in Iowa Code section 476.20 is a service member deployed for military service, as defined in Iowa Code section 29A.90, disconnection cannot take place at the residence during the deployment or prior to 90 days after the end of the deployment.

k. Abnormal electric consumption. A customer who is subject to disconnection for nonpayment of bill, and who has electric consumption which appears to the customer to be abnormally high, may request the utility to provide assistance in identifying the factors contributing to this usage pattern and to suggest remedial measures. The electric cooperative or municipal electric utility shall provide assistance by discussing patterns of electric usage which may be readily identifiable, suggesting that an energy audit be conducted, and identifying sources of energy conservation information and financial assistance which may be available to the customer.

l. An electric cooperative or municipal electric utility may disconnect electric service after 24-hour notice (and without the written 12-day notice) for failure of the customer to comply with the terms of a payment agreement.

m. The electric cooperative or municipal electric utility shall, prior to November 1, mail customers a notice describing the availability of winter energy assistance funds and the application process. The notice must be of a type size that is easily legible and conspicuous and must contain the information set out by the state agency administering the assistance program. A utility serving fewer than 25,000 customers may publish the notice in a customer newsletter in lieu of mailing. An electric cooperative or municipal electric utility serving fewer than 6,000 customers may publish the notice in an advertisement in a local newspaper of general circulation or shopper's guide.

27.4(2) *Notice of customer rights and responsibilities.* The standard form of the summary of the rights and responsibilities to be provided to customers is set out below, and all electric cooperatives and municipal electric utilities providing electric service shall provide the notice with all disconnection notices. If an electric cooperative or municipal electric utility does not use the standard form as set out below, the electric cooperative or municipal electric utility shall submit to the board for approval an alternative notice. The standard customer rights and responsibilities notice is as follows:

CUSTOMER RIGHTS AND RESPONSIBILITIES TO AVOID SHUTOFF OF ELECTRIC SERVICE FOR NONPAYMENT

1. What can I do if I receive a notice from the utility that says my service will be shut off because I have a past due bill?

a. Pay the bill in full; or

b. Enter into a reasonable payment plan with the utility (see #2 below); or

c. Apply for and become eligible for low-income energy assistance (see #3 below); or

d. Give the electric cooperative or municipal electric utility a written statement from a doctor or public health official stating that shutting off your electric service would pose an especial health danger for a person living at the residence (see #4 below); or

e. Tell the utility if you think part of the amount shown on the bill is wrong. However, you must still pay the part of the bill you agree you owe the utility (see #5 below).

2. How do I go about making a reasonable payment plan? (Residential customers only)

a. Contact the electric cooperative or municipal electric utility as soon as you know you cannot pay the amount you owe. If you cannot pay all the money you owe at one time, the utility shall offer you a payment plan that spreads payments evenly over at least 12 months. The plan may be longer depending on your financial situation.

b. If you have not made the payments you promised in a previous payment plan with the utility and still owe money, you may qualify for a second payment agreement under certain conditions.

c. If you do not make the payments you promise, the utility may shut off your electric service on one day's notice unless all the money you owe the utility is paid or you enter into another payment agreement.

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) or visit humanrights.iowa.gov/dcaa/where-apply.

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.

4. What if someone living at the residence has a serious health condition? (Residential customers only)

Contact the electric cooperative or municipal electric utility if you believe this is the case. Contact your doctor or a public health official and ask the doctor or health official to contact the utility and state that shutting off your electric service would pose an especial health danger for a person living at your residence. The doctor or public health official must provide a written statement to the electric cooperative's or municipal electric utility's office within five days of when your doctor or public health official notifies the utility of the health condition; otherwise, your electric service may be shut off. If the utility receives this written statement, your service will not be shut off for 30 days. This 30-day delay is to allow you time to arrange payment of your utility bill or find other living arrangements. After 30 days, your service may be shut off if payment arrangements have not been made.

5. What should I do if I believe my bill is not correct?

You may dispute your bill. You must tell the electric cooperative or municipal electric utility that you dispute the bill. You must pay the part of the bill you think is correct. If you do this, the utility will not shut off your service for 45 days from the date the bill was mailed while you and the electric cooperative or municipal electric utility work out the dispute over the part of the bill you think is incorrect. You may ask the Iowa Utilities Board for assistance in resolving the dispute (see #9 below).

6. When can the electric cooperative or municipal electric utility shut off my electric service because I have not paid my bill?

a. Your electric cooperative or municipal electric utility can shut off service between the hours of 6 a.m. and 2 p.m. Monday through Friday.

b. The electric cooperative or municipal electric utility will not shut off your service on nights, weekends, or holidays for nonpayment of a bill.

c. The electric cooperative or municipal electric utility will not shut off your service if you enter into a reasonable payment plan to pay the overdue amount (see #2 above).

d. The electric cooperative or municipal electric utility will not shut off your service if the temperature is forecasted to be 20 degrees Fahrenheit or colder during the following 24-hour period, including the day your service is scheduled to be shut off.

e. If you have qualified for low-income energy assistance, the electric cooperative or municipal electric utility cannot shut off your service from November 1 through April 1. However, you will still owe the electric cooperative or municipal electric utility for the service used during this time.

f. The electric cooperative or municipal electric utility will not shut off your service if you have notified the electric cooperative or municipal electric utility that you dispute a portion of your bill and you pay the part of the bill that you agree is correct.

g. If one of the heads of household is a service member deployed for military service, electric service cannot be shut off during the deployment or within 90 days after the end of deployment. In order for this exception to disconnection to apply, the electric cooperative or municipal electric utility must be informed of the deployment prior to disconnection. However, you will still owe the electric cooperative or municipal electric utility for service used during this time.

7. How will I be told the electric cooperative or municipal electric utility is going to shut off my service?

a. You must be given a written notice at least 12 days before the electric service can be shut off for nonpayment. This notice will include the reason for shutting off your service.

b. If you have not made payments required by an agreed-upon payment plan, your service may be disconnected with only one day's notice.

c. The electric cooperative or municipal electric utility must also try to reach you by telephone or in person before it shuts off your service. From November 1 through April 1, if the electric cooperative or municipal electric utility cannot reach you by telephone or in person, the electric cooperative or municipal electric utility will put a written notice on the door of or another conspicuous place at your residence to tell you that your electric service will be shut off.

8. If service is shut off, when will it be turned back on?

a. The electric cooperative or municipal electric utility will turn your service back on if you pay the whole amount you owe.

b. If you make your payment during regular business hours, or by 7 p.m. for electric cooperatives or municipal electric utilities permitting such payment or other arrangements after regular business hours, the electric cooperative or municipal electric utility must make a reasonable effort to turn your service back on that day. If service cannot reasonably be turned on that same day, the utility must do it by 11 a.m. the next day.

c. The electric cooperative or municipal electric utility may charge you a fee to turn your service back on. Those fees may be higher in the evening or on weekends, so you may ask that your service be turned on during normal utility business hours.

9. Is there any other help available besides my electric cooperative or municipal electric utility?

If the electric cooperative or municipal electric utility has not been able to help you with your problem, you may contact the Iowa Utilities Board toll-free at 1-877-565-4450. You may also write the Iowa Utilities Board at 1375 E. Court Avenue, Des Moines, Iowa 50319-0069, or by email at customer@iub.iowa.gov. Low-income customers may also be eligible for free legal assistance from Iowa Legal Aid and may contact Iowa Legal Aid at 1-800-532-1275.

27.4(3) *When disconnection is prohibited.*

a. No disconnection may take place from November 1 through April 1 for a resident who has been certified to the public utility by the local community action agency as being eligible for either the low-income home energy assistance program or weatherization assistance program.

b. If the electric cooperative or municipal electric utility is informed that one of the heads of household as defined in Iowa Code section 476.20 is a service member deployed for military service, as defined in Iowa Code section 29A.90, disconnection cannot take place at the residence during the deployment or prior to 90 days after the end of the deployment.

27.4(4) *Servicing of utilization control equipment.* Each electric cooperative or municipal electric utility shall service and maintain any equipment it uses on a customer's premises and shall correctly set and keep in proper adjustment any thermostats, clocks, relays, time switches or other devices which control the customer's service in accordance with the provisions in the utility's schedules.

27.4(5) *Customer complaints.* Complaints concerning the charges, practices, facilities or service of the electric cooperative or municipal electric utility shall be investigated promptly and thoroughly. The electric cooperative or municipal electric utility shall keep such records of customer complaints as will enable it to review and analyze its procedures and actions.

a. Each electric cooperative and municipal electric utility shall develop a fully informative procedure for the resolution of customer complaints.

b. The utility shall take reasonable steps to ensure that customers unable to travel shall not be denied the right to be heard.

c. The final step in a complaint review procedure shall be a filing for board resolution of the issues.

27.4(6) *Limitation of service.* The electric cooperative or municipal electric utility shall have the option of adopting a policy for service limitation at a customer's residence as a measure to be taken in lieu of disconnection of service to the customer. The service limiter policy shall be set out in the utility's tariff, or other legal document, and shall contain the following conditions:

a. A service limitation device shall not be activated without the customer's agreement.

b. A service limitation device shall not be activated unless the customer has defaulted on all payment agreements for which the customer qualifies under the board's rules and the customer has agreed to a subsequent payment agreement.

c. The service limiter shall provide for usage of a minimum of 3,600 watts. If the service limiter policy provides for different usage levels for different customers, the tariff or rules shall set out specific nondiscriminatory criteria for determining the usage levels. Electric-heating residential customers may have their service limited if otherwise eligible, but such customers shall have consumption limits set at a level that allows them to continue to heat their residences. For purposes of this rule, "electric heating" shall mean heating by means of a fixed-installation electric appliance that serves as the primary source of heat and not, for example, one or more space heaters.

d. A provision that, if the minimum usage limit is exceeded such that the limiter function interrupts service, the service limiter function must be capable of being reset manually by the customer, or the service limiter function must reset itself automatically within 15 minutes after the interruption. In addition, the service limiter function may also be capable of being reset remotely. If the option of resetting the meter remotely is available, the utility shall provide a 24-hour toll-free number for the customer to notify the electric cooperative or municipal electric utility that the limiter needs to be reset and the meter shall be reset immediately following notification by the customer. If the remote reset option is used, the meter must still be capable of being reset manually by the customer or the service limiter function must reset itself automatically within 15 minutes after the interruption.

e. There shall be no disconnect, reconnect, or other charges associated with service limiter interruptions or restorations.

f. A provision that, upon installation of a service limiter or activation of a service limiter function on the meter, the electric cooperative or municipal electric utility shall provide the customer with information on the operation of the limiter, including how it can be reset, and information on what appliances or combination of appliances can generally be operated to stay within the limits imposed by the limiter.

g. A provision that the service limiter function of the meter shall be disabled no later than the next working day after the residential customer has paid the delinquent balance in full.

h. A service limiter customer that defaults on the payment agreement is subject to disconnection after a 24-hour notice.

199—27.5(476) Engineering practice.

27.5(1) *Requirement for good engineering practice.* The electric plant of the electric cooperative or municipal electric utility shall be constructed, installed, maintained and operated in accordance with accepted good engineering practice in the electric industry to assure, as far as reasonably possible, continuity of service, uniformity in the quality of service furnished, and the safety of persons and property.

27.5(2) *Standards incorporated by reference.* The electric cooperative and municipal electric utility shall use the applicable provisions in the publications listed below as standards of accepted good practice unless otherwise ordered by the board.

a. Iowa Electrical Safety Code, as defined in 199—Chapter 25.

b. National Electrical Code, ANSI/NFPA 70-2014.

c. American National Standard Requirements for Instrument Transformers, ANSI/IEEE C57.13.1-2006; and C57.13.3-2005.

d. American National Standard for Electric Power Systems and Equipment Voltage Ratings (60 Hertz), ANSI C84.1-2011.

e. Grounding of Industrial and Commercial Power Systems, IEEE 142-2007.

f. IEEE Standard 1159-2009, IEEE Recommended Practice for Monitoring Electric Power Quality, or any successor standard.

g. IEEE Standard 519-2014, IEEE Recommended Practices and Requirements for Harmonic Control in Electrical Power Systems, or its successor standard.

h. At railroad crossings, 199—42.6(476), "Engineering standards for electric and communications lines."

199—27.6(476) Metering. Each electric cooperative and municipal electric utility shall have a meter inspection and testing program that meets industry standards similar to ANSI C12.1-2014. Each electric cooperative and municipal electric utility shall retain meters removed from service for at least six months or a length of time based upon industry standards.

199—27.7(476) Standards of quality of service.

27.7(1) *Standard frequency.* The standard frequency for alternating current distribution systems shall be 60 cycles per second. The frequency shall be maintained within limits which will permit the satisfactory operation of customer's clocks connected to the system.

27.7(2) *Voltage limits retail.* Each electric cooperative and municipal electric utility supplying electric service to ultimate customers shall provide service voltages in conformance with the standard at 27.5(2)"*d.*"

27.7(3) *Voltage balance.* Where three-phase service is provided the electric cooperative or municipal electric utility shall exercise reasonable care to assure that the phase voltages are in balance. In no case shall the ratio of maximum voltage deviation from average to average voltage exceed .02.

27.7(4) *Exceptions to voltage requirements.* Voltage outside the limits specified will not be considered a violation when the variations:

a. Arise from the action of the elements.

b. Are infrequent fluctuations not exceeding five minutes' duration.

c. Arise from service interruptions.

d. Arise from temporary separation of parts of the system from the main system.

e. Are from causes beyond the control of the electric cooperative or municipal electric utility.

f. Do not exceed 10 percent above or below the standard nominal voltage, and service is at a distribution line or transmission line voltage with the retail customer providing voltage regulators.

27.7(5) *Voltage surveys and records.* Voltage measurements shall be made at the customer's entrance terminals. For single-phase service the measurement shall be made between the grounded conductor and the ungrounded conductors. For three-phase service the measurement shall be made between the phase wires.

27.7(6) *Voltage measurements.* Each electric cooperative or municipal electric utility shall make a sufficient number of voltage measurements in order to determine if voltages are in compliance with the requirements as stated in subrules 27.7(2), 27.7(3), and 27.7(4). All records obtained under this subrule shall be retained by the electric cooperative or municipal electric utility for at least two years and shall be available for inspection by the board's representatives. Notations on each chart shall indicate the following:

a. The location where the voltage was taken.

b. The time and date of the test.

c. The results of the comparison with a working standard indicating voltmeter.

27.7(7) *Equipment for voltage measurements.*

a. *Secondary standard indicating voltmeter.* Each electric cooperative or municipal electric utility shall have available at least one indicating voltmeter maintained with error no greater than 0.25 percent of full scale.

b. *Working standard indicating voltmeters.* Each electric cooperative or municipal electric utility shall have at least two indicating voltmeters maintained so as to have as-left errors of no greater than 1 percent of full scale.

c. *Recording voltmeters.* Each electric cooperative or municipal electric utility must have readily available at least two portable recording voltmeters with a rated accuracy of 1 percent of full scale.

27.7(8) *Handling of standards and instruments.* Extreme care must be exercised in the handling of standards and instruments to assure that their accuracy is not disturbed. Each standard shall be accompanied at all times by a certificate or calibration card, duly signed and dated, on which are recorded the corrections required to compensate for errors found at the customary test points at the time of the last previous test.

27.7(9) *Planned interruptions.* Planned interruptions shall be made at a time that will not cause unreasonable inconvenience to customers, and interruptions planned for longer than one hour shall be preceded by adequate notice to those who will be affected.

27.7(10) *Power quality monitoring.* Each electric cooperative or municipal electric utility shall investigate power quality complaints from its customers and determine if the cause of the problem is on the utility's systems. In addressing these problems, each electric cooperative or municipal electric utility shall implement to the extent reasonably practical the practices outlined in the standard given at 27.5(2)*"f."*

27.7(11) *Harmonics.* A harmonic is a sinusoidal component of the 60 cycles per second fundamental wave having a frequency that is an integral multiple of the fundamental frequency. When excessive harmonics problems arise, each electric cooperative or municipal electric utility shall investigate and take actions to rectify the problem. In addressing harmonics problems, the utility and the customer shall implement to the extent practicable and in conformance with prudent operation the practices outlined in the standard at 27.5(2)*"g."*

199—27.8(476) Safety.

27.8(1) *Iowa electrical safety code compliance.* Each electric cooperative and municipal electric utility shall be subject to 199—Chapter 25 under this subrule.

27.8(2) *Interconnection compliance.* Each electric cooperative and municipal electric utility shall be subject to rule 199—15.10(476) under this subrule.

27.8(3) *Protective measures.* Each electric cooperative and municipal electric utility shall exercise reasonable care to reduce those hazards inherent in connection with its electric 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.

27.8(4) *Accident investigation and prevention.* Electric cooperatives and municipal electric utilities shall give reasonable assistance to the board in the investigation of the cause of accidents and in the determination of suitable means of preventing accidents.

27.8(5) *Reportable accidents.* Electric cooperatives and municipal electric utilities shall maintain a summary of all reportable accidents, as defined in rule 199—25.5(476,478), arising from operations.

27.8(6) *Grounding of secondary distribution system.* Unless otherwise specified by the board, each electric cooperative and municipal electric utility shall comply with, and shall encourage customers to comply with, the applicable provisions of the acceptable standards listed in subrule 27.5(2) for the grounding of secondary circuits and equipment.

a. Ground connections should be tested for resistance at the time of installation. Each electric cooperative and municipal electric utility shall keep a record of all ground resistance measurements.

b. Each electric cooperative and municipal electric utility shall establish a program of inspection so that all artificial grounds installed shall be inspected within reasonable periods of time.

199—27.9(476) Customer contribution fund.

27.9(1) *Applicability and purpose.* This rule applies to each electric cooperative and municipal electric utility, as defined in Iowa Code sections 476.1A and 476.1B. Pursuant to Iowa Code section 476.66, each electric cooperative or municipal electric utility shall maintain a program plan to assist the electric cooperative's or municipal electric utility's low-income customers with weatherization and to supplement assistance received under the federal low-income home energy assistance program for the payment of winter heating bills.

27.9(2) *Notification.* Each electric cooperative or municipal electric utility shall notify all customers of the customer contribution fund at least twice a year. The method of notice which will ensure the most comprehensive notification to the electric cooperative's or municipal electric utility's customers shall be employed. Upon commencement of service and at least once a year, the notice shall be mailed or personally delivered to all customers, or provided by electronic means to those customers who have consented to receiving electronic notices. The other required notice may be published in a local newspaper(s) of general circulation within the service territory of the electric cooperative or municipal electric utility. A utility serving fewer than 6,000 customers may publish its semiannual notices locally in a free newspaper, utility newsletter or shopper's guide instead of a newspaper. At a minimum, the notice shall include:

a. A description of the availability and the purpose of the fund.

b. A customer authorization form. This form shall include a monthly billing option and any other methods of contribution.

27.9(3) *Methods of contribution.* The electric cooperative or municipal electric utility shall provide for contributions as monthly pledges, as well as one-time or periodic contributions. A pledge by a customer or other party shall not be construed to be a binding contract between the electric cooperative or municipal electric utility and the pledger. The pledge amount shall not be subject to delayed payment charges by the electric cooperative or municipal electric utility. Each electric cooperative or municipal electric utility may allow persons or organizations to contribute matching funds.

27.9(4) *Annual report.* On or before September 30 of each year, each electric cooperative or municipal electric utility shall file with the board a report of all the customer contribution fund activity for the previous fiscal year beginning July 1 and ending June 30. The report shall be in a form provided by the board and shall contain an accounting of the total revenues collected and all distributions of the fund. The electric cooperative or municipal electric utility shall report all utility expenses directly related to the customer contribution fund.

199—27.10(476,478) Service reliability requirements for electric utilities.

27.10(1) *Applicability.* This rule is applicable to electric cooperatives and associations operating within the state of Iowa subject to Iowa Code chapter 476.

27.10(2) *Purpose and scope.* Reliable electric service is of high importance to the health, safety, and welfare of the citizens of Iowa. The purpose of this rule is to establish standards of reliability of the transmission and distribution systems and facilities that are under the board's jurisdiction.

27.10(3) *General obligations.*

a. Each electric cooperative shall make reasonable efforts to avoid and prevent interruptions of service. However, when interruptions occur, service shall be reestablished within the shortest time practicable, consistent with safety.

b. The electric cooperative's electrical transmission and distribution facilities shall be designed, constructed, maintained, and electrically reinforced and supplemented as required to reliably perform the power delivery burden placed upon them in the storm and traffic hazard environment in which they are located.

c. Each electric cooperative shall carry on an effective preventive maintenance program and shall be capable of emergency repair work on a scale which its storm and traffic damage record indicates as appropriate to its scope of operations and to the physical condition of its transmission and distribution facilities.

d. Each electric cooperative shall keep records of interruptions of service on its primary distribution system and shall make an analysis of the records for the purpose of determining steps to be taken to prevent recurrence of such interruptions.

e. Each electric cooperative shall make reasonable efforts to reduce the risk of future interruptions by taking into account the age, condition, design, and performance of transmission and distribution facilities and providing adequate investment in the maintenance, repair, replacement, and upgrade of facilities and equipment.

f. Any electric cooperative unable to comply with applicable provisions of this rule may file a waiver request pursuant to rule 199—1.3(17A,474,476).

199—27.11(476,478) Notification of outages.

27.11(1) *Notification.* The notification requirements in subrules 27.11(1) and 27.11(2) are for the timely collection of electric outage information that may be useful to emergency management agencies in providing for the safety and welfare of individual Iowa citizens. Each electric cooperative and municipal 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. Loss of service for more than six hours to substantially all of a municipality, including the surrounding area served by the same electric cooperative or municipal electric utility. An electric cooperative or municipal electric 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. A major event as defined in subrule 27.1(4); or

c. Any other outage considered significant by the electric cooperative or municipal electric utility. This includes loss of service for more than six hours to significant public health and safety facilities known to the electric cooperative or municipal electric utility at the time of the notification.

27.11(2) *Information required.*

a. Notification shall be provided regarding outages that meet the requirements of subrule 27.11(1) by notifying the board duty officer by email at dutyofficer@iub.iowa.gov or, in appropriate circumstances, by telephone at (515)745-2332. Notification shall be made at the earliest possible time after it is determined the event may be reportable and should include the following information, as available:

(1) The general nature or cause of the outage;

(2) The area affected;

(3) The approximate number of customers that have experienced a loss of electric service as a result of the outage;

(4) The time when service is estimated to be restored; and

(5) The name of the electric cooperative or municipal electric utility, the name and telephone number of the person making the report, and the name and telephone number of a contact person knowledgeable about the outage. The notice should be supplemented as more complete or accurate information is available.

b. The electric cooperative or municipal electric utility shall provide to the board updates of the estimated time when service will be restored to all customers able to receive service or of significant changed circumstances, unless service is restored within one hour of the time initially estimated.

c. The electric cooperative or municipal electric utility shall notify the board once service is fully restored to all customers after an outage meeting the requirements of subrule 27.11(1).

199—27.12(476) Electric vehicle charging service. A commercial or public electric vehicle charging station is not a public utility under Iowa Code section 476.1 if the charging station receives all electric power from the electric utility in whose service area the charging station is located. If an electric vehicle charging station obtains electric power from a source other than the electric utility, the determination of whether the commercial or public electric vehicle charging station is a public utility shall be resolved by the board.

UTILITIES DIVISION[199](cont'd)

199—27.13(476) Exterior flood lighting.

27.13(1) *Newly installed lighting.* All newly installed exterior flood lighting owned by an electric cooperative or municipal electric utility shall be solid-state lighting or lighting with equivalent or better energy efficiency.

27.13(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 or for any other reason, such as vandalism or storm damage.

27.13(3) *Efficacy standards.* Lighting other than solid-state has equivalent or better efficacy if one or more of the following can be established:

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.

These rules are intended to implement Iowa Code sections 476.1A and 476.1B.

ARC 5283C

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Rule making related to NPDES general permit no. 5

The Environmental Protection Commission hereby amends Chapter 64, "Wastewater Construction and Operation Permits," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 455B.173(11).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 455B.173(11) and 455B.186.

Purpose and Summary

The purpose of this rule making is to renew National Pollutant Discharge Elimination System (NPDES) General Permit No. 5 (GP5), which authorizes the discharge of wastewater associated with mining and processing facilities. The permit requires the implementation of best management practices and requires monitoring of the wastewater effluent to determine compliance with applicable limits.

This rule making includes changes to GP5 in order to increase clarity, add definitions, revise the definition for "Water of the United States" to reference the federal definition as of June 22, 2020 (effective date of the final Navigable Waters Protection Rule published by the United States Environmental Protection Agency), and comply with existing state rules. Annual fees are required with GP5. Fees are specified in Iowa Code section 455B.197 and are not impacted by this rule making.

A copy of the proposed permit is available online at www.iowadnr.gov/Environmental-Protection/Water-Quality/NPDES-Wastewater-Permitting/NPDES-General-Permits/GP5-Mining-Processing.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 12, 2020, as **ARC 5135C**. A public hearing was held via conference call on September 2, 2020, at 2 p.m. There were four attendees. 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 20, 2020.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 561—Chapter 10.

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 July 20, 2021.

The following rule-making action is adopted:

Amend subrule 64.15(5) as follows:

64.15(5) "Discharge from Mining and Processing Facilities," NPDES General Permit No. 5, effective July 20, ~~2016~~ 2021, to July 19, ~~2021~~ 2026.

[Filed 10/23/20, effective 7/20/21]
[Published 11/18/20]

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ARC 5284C

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Rule making related to NPDES general permit no. 7

The Environmental Protection Commission hereby amends Chapter 64, "Wastewater Construction and Operation Permits," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 455B.173(11).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 455B.173(11) and 455B.186.

Purpose and Summary

The purpose of this rule making is to renew National Pollutant Discharge Elimination System (NPDES) General Permit No. 7 (GP7), which authorizes discharges that result from the application of biological pesticides and chemical pesticides that leave residue from point sources to waters of the United States. The permit covers discharges resulting from the application of pesticides to control aquatic nuisance insects and animals, weeds, algae, bacteria, fungi, fish parasites, and forest canopy pests. Irrigation return flows and agricultural runoff are not covered under GP7 because they are excluded from the Clean Water Act. The permit requires the implementation of best management practices and visual monitoring of the application site for adverse impacts caused by the application of pesticides. No fees are associated with GP7.

This rule making includes formatting and other nonsubstantive changes to GP7 to simplify existing language, improve clarity, and minimize unnecessary duplication. This rule making also includes five substantive changes to GP7 as described below.

- Add coverage for discharges resulting from ground application of a pesticide to a forest canopy since this is a method used to control pests such as the gypsy moth and new pests like the walnut twig beetle.
- Require reporting of the exact location of a hazardous condition and the name of any affected water body as part of the six-hour hazardous condition notification requirements since this information is important for Department response efforts.
- Remove the part titled "Additional Permit Requirements," which states that the Department may impose additional, enforceable permit conditions in a written notice. This part is considered unnecessary since the Department can require an individual permit where requirements beyond those included in the general permit are necessary. Removal of this part does not affect the Department's authority to enforce permit conditions.
- Remove requirements for operators to keep a copy of GP7 since this requirement is not included in other general permits issued by the Department.
- Revise the definition for "Water of the United States" to reference the current federal definition as of June 22, 2020, which is the effective date of the final Navigable Waters Protection Rule published by the United States Environmental Protection Agency.

A copy of the proposed permit is available online at www.iowadnr.gov/Environmental-Protection/Water-Quality/NPDES-Wastewater-Permitting/NPDES-General-Permits/GP7-Pesticides.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 12, 2020, as **ARC 5136C**. A public hearing was held via conference call on September 1, 2020, at 2 p.m. Three people attended the hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Commission on October 20, 2020.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 561—Chapter 10.

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 May 18, 2021.

The following rule-making action is adopted:

Amend subrule 64.15(7) as follows:

64.15(7) "Pesticide General Permit (PGP) for Point Source Discharges to Waters of the United States from the Application of Pesticides," NPDES General Permit No. 7, effective May 18, ~~2016~~ 2021, to May 17, ~~2021~~ 2026.

[Filed 10/23/20, effective 5/18/21]
[Published 11/18/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/18/20.

ARC 5285C

NURSING BOARD[655]

Adopted and Filed

Rule making related to administrative and regulatory authority

The Board of Nursing hereby amends Chapter 1, "Administrative and Regulatory Authority," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 17A.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 135.11B.

Purpose and Summary

2019 Iowa Acts, House File 766, section 59, created new Iowa Code section 135.11B, which provides the Director of the Iowa Department of Public Health with the authority to hire and supervise the executive directors of the Boards of Medicine, Nursing, and Pharmacy and the Dental Board. Previously, the Board of Nursing hired and supervised its own Executive Director. The Board will now advise and consult with the Director in the hiring and supervision of the Executive Director. This rule making amends rule 655—1.3(17A,147,152) to conform to the Board's new advisory and consulting role in the hiring and supervising of its Executive Director.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 9, 2020, as **ARC 5164C**. A public hearing was held on September 29, 2020, at 9 a.m. at the Board's office, 400 S.W. Eighth Street, Suite B, 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 October 14, 2020.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 655—Chapter 15.

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 23, 2020.

The following rule-making action is adopted:

Amend paragraph **1.3(2)"j"** as follows:

j. ~~Appoint~~ Retain a full-time executive director who~~, under the direction of the board,~~ is responsible for the administration of policies and programs of the board and for the operation of the board office. ~~Appointment or termination of appointment of the executive director shall require a majority vote of the entire board.~~ Pursuant to Iowa Code section 135.11B, the board shall advise the director of the department of public health in evaluating potential candidates for the position of executive director, consult with the director in the hiring of the executive director, and review and advise the director on the performance of the executive director in the discharge of the executive director's duties.

[Filed 10/28/20, effective 12/23/20]
[Published 11/18/20]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/18/20.

ARC 5286C

NURSING BOARD[655]

Adopted and Filed

Rule making related to preceptorships

The Board of Nursing hereby amends Chapter 2, "Nursing Education Programs," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 147.76 and 152.5.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 152.

Purpose and Summary

The Board's Advanced Registered Nurse Practitioner (ARNP) Advisory Committee reviewed Chapter 2 and made suggestions to align the rules with current nursing education, research, and practice trends. The Board adopted these amendments after considering the Committee's recommendations. This rule making first amends the definition of "preceptor" to be consistent with how the term is used throughout the chapter. This rule making also explains that educational programs may not require students to find their own preceptors, and programs must instead work with students to identify appropriate preceptors. This rule making also separates the standards for ARNP and undergraduate/non-ARNP preceptorships, and clarifies that ARNP preceptors must be licensed as ARNPs or physicians.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 29, 2020, as **ARC 5117C**. A public hearing was held on August 18, 2020, at 10 a.m. at the Board's office, 400 S.W. Eighth Street, Suite B, 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 October 14, 2020.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 655—Chapter 15.

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 23, 2020.

The following rule-making actions are adopted:

ITEM 1. Amend rule **655—2.1(152)**, definition of "Preceptor," as follows:

"Preceptor" means a licensed individual who meets Iowa board of nursing qualifications as specified in this chapter, is on staff at the facility where the experience occurs, is selected by the ~~educational facility~~ nursing program in collaboration with the clinical facility, and is responsible for the on-site direction of the student over a period of time.

ITEM 2. Amend subrule 2.4(2) as follows:

2.4(2) The program shall provide to the board the nursing education program report and requested materials addressing all aspects of the program outlined in rules 655—2.8(152) to ~~655—2.17(152)~~

655—2.18(152) and documenting how the criteria for approval are met. Documentation may include current information submitted by the program to other approving and accrediting entities.

ITEM 3. Amend rule 655—2.15(152) as follows:

655—2.15(152) ~~Preceptorship~~ Undergraduate and non-ARNP graduate program preceptorship.

2.15(1) A preceptor shall be selected by the nursing program in collaboration with a clinical facility to provide supportive learning experiences consistent with program outcomes.

a. A nursing education program shall not require students to find their own preceptors. The nursing education program and student shall work together to find an appropriate preceptor.

b. The student shall have the preceptorship learning experience with a preceptor who has equivalent licensure as the student or practices in the same role for which the student is preparing.

2.15(2) The qualifications of a preceptor shall be appropriate to support the ~~philosophy/mission~~ philosophy, mission, and outcomes of the program.

a. The preceptor shall be employed by or maintain a current written agreement with the clinical facility in which a preceptorship experience occurs.

b. The preceptor shall be currently licensed as a registered nurse, licensed practical nurse, or advanced registered nurse practitioner according to the laws of the state in which the preceptor practices.

c. The preceptor shall function according to written policies for selection, evaluation and reappointment developed by the program. Written qualifications, developed by the program, shall address educational preparation, experience, and clinical competence.

d. The program shall be responsible for informing the preceptor of the responsibilities of the preceptor, faculty and students.

e. The program shall retain ultimate responsibility for student learning and evaluation.

2.15(3) The program shall inform the board ~~of~~ about the preceptorship learning ~~experiences~~ experience process.

a. Written preceptorship agreements shall be reviewed annually by the program.

b. The board may conduct a site visit to settings in which preceptorship experiences occur.

c. The rationale for the ratio of students to preceptors shall be documented by the program.

2.15(4) An individual who is not a registered nurse or a licensed practical nurse may serve as a preceptor when appropriate to the ~~philosophy/mission~~ philosophy, mission, and outcomes of the program.

ITEM 4. Renumber rules **655—2.16(152)** and **655—2.17(152)** as **655—2.17(152)** and **655—2.18(152)**.

ITEM 5. Adopt the following **new** rule 655—2.16(152):

655—2.16(152) ARNP program preceptorship.

2.16(1) A preceptor shall be selected by the nursing program in collaboration with a clinical facility to provide supportive learning experiences consistent with program outcomes.

a. A nursing education program shall not require students to find their own preceptors. The nursing education program and student shall work together to find an appropriate preceptor.

b. The student shall have the majority of preceptorship learning experiences with a preceptor who is an ARNP or physician with the same role and population focus for which the student is preparing.

2.16(2) The qualifications of a preceptor shall be appropriate to support the philosophy, mission, and outcomes of the program.

a. The preceptor shall be employed by or maintain a current written agreement with the clinical facility in which a preceptorship experience occurs.

b. The preceptor shall be currently licensed as an advanced registered nurse practitioner or physician according to the laws of the state in which the preceptor practices.

c. The preceptor shall function according to written policies for selection, evaluation and reappointment developed by the program. Written qualifications, developed by the program, shall address educational preparation, experience, and clinical competence.

d. The program shall be responsible for informing the preceptor of the responsibilities of the preceptor, faculty and students.

e. The program shall retain ultimate responsibility for student learning and evaluation.

2.16(3) The program shall inform the board about the preceptorship learning experience process.

a. Written preceptorship agreements shall be reviewed annually by the program.

b. The board may conduct a site visit to settings in which preceptorship experiences occur.

c. The rationale for the ratio of students to preceptors shall be documented by the program.

ITEM 6. Amend renumbered subrule 2.18(4) as follows:

2.18(4) If a program makes changes as part of a plan to improve the program's NCLEX® passing percentage, pursuant to rule ~~655—2.16(152)~~ 655—2.17(152), such changes must also be separately submitted to the board for approval pursuant to this rule.

[Filed 10/28/20, effective 12/23/20]
[Published 11/18/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/18/20.

ARC 5287C

PUBLIC SAFETY DEPARTMENT[661]

Adopted and Filed

Rule making related to standards for electrical work

The Electrical Examining Board hereby amends Chapter 504, "Standards for Electrical Work," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 103.6.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 103.6.

Purpose and Summary

The purpose of this amendment is to update the Standards for Electrical Work to the National Electrical Code, 2020 edition. Consistent with rule making in this chapter, the entire National Electrical Code (NEC) is adopted, with the amendments included in this chapter. It is the intention of the Department and the Board to not make further amendments, regardless of new additions to the NEC, until it is necessary for the state of Iowa. A significant effect of the adoption of the 2020 edition of the NEC would have been the requirement for 250-volt receptacles, but the Board, in addition to adopting the 2020 edition of the NEC by reference, is amending the 2020 edition to remove that requirement. Although the ground fault circuit interrupter requirement for 250-volt receptacles is removed, it is possible that future NEC amendments will return this provision to the administrative rules.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 26, 2020, as **ARC 5152C**. A public hearing was held on September 17, 2020, at 10 a.m. in First Floor Public Conference Room 125, Oran Pape State Office Building, 215 East 7th Street, Des Moines, Iowa.

Don Iverson, with Schneider-Square D, suggested the Board accept the 2020 NEC without amendments. Mr. Iverson stated that documentation submitted to Code Panel 2 reflected the number of lives lost around outside air conditioners and indoor appliances due to electrocution. As a safety

advocate for ground-fault circuit interrupter (GFCI) protection, he would like the Board to change direction in amending the 2020 NEC, stating that GFCI technology has been around since the late 1960s and electrocutions have decreased significantly due to GFCIs installed in homes. Mr. Iverson would like the Board to reconsider its stance on removing 250-volt language, and suggested a possible middle ground to GFCI protection in consideration of public safety. Possible middle ground would be to restore Article 210.8A, where the subcommittee struck the 250-volt language, and then place a sunset on outdoor outlets in Article 210.8F to become effective at the next code adoption.

Tim McClintock, with the National Electrical Manufacturers Association (NEMA), thanked the Board for wanting to adopt the 2020 NEC. Mr. McClintock had previously submitted written comments and reiterated his request that the Board adopt the 2020 NEC without amendments. Mr. McClintock explained the process that the National Fire Protection Association (NFPA) uses with the development of the NEC, where the process is open, transparent and balanced, and accredited by the American National Standards Institute (ANSI). Changes are not made to the NEC unless substantiated by logical reasoning, research, data and statistics — all to promote the practical safeguarding of persons and property from hazards arising from the use of electricity. Mr. McClintock also touched on GFCI equipment that was in the 1971 NEC edition, and stated that published data from the U.S. Consumer Product Safety Commission shows decreasing trends in electrocutions in the United States. Mr. McClintock stated that NEMA urges the Board to move forward with adoption of the 2020 NEC and reconsider the proposed amendments to remove GFCIs.

Chris Higgins, an Iowa-licensed master electrician and electrical contractor, stated that his only concern is if the 2020 NEC is adopted without amendments, there may be no indication if the electrocutions were due to faulty installation or faulty equipment. Mr. Higgins understands that one life is too many, but questioned whether that is justification for increased cost of GFCIs being put on consumers.

Trevor Williams submitted the following written comments:

1. **Proposed amendment to 210.8(A)(5).** Add the following amendment to existing Exception to (5):

Exception to (5) A receptacle supplying only a permanently installed sump pump shall not be required to have ground-fault circuit interrupter protection if all of the following conditions are met:

1. Receptacle supplying permanently installed sump pump shall be of the single use grounding type.
2. Circuit supplying permanently installed sump pump shall have a disconnecting means within 6 feet of the receptacle supplying it.
3. Disconnecting means shall be labeled as "Sump Pump, Disconnect before servicing" or equivalent. Note: Label may be field applied.

2. **Proposed amendment to 230.67(D).** Remove existing language and replace with:

(D) Replacement. Where service equipment is replaced, it shall be allowed, but not required, to meet all of the requirements of this section.

3. **Proposed amendment to 230.71 Maximum number of disconnects.**

Remove existing 2020 NEC language and replace with:

230.71 Maximum Number of Disconnects.

(A) General. The service disconnecting means for each service permitted by 230.2, or for each set of service-entrance conductors permitted by 230.40, Exception No. 1, 3, 4, or 5, shall consist of not more than six switches or sets of circuit breakers, or a combination of not more than six switches and sets of circuit breakers, mounted in a single enclosure, in a group of separate enclosures, or in or on a switchboard or in switchgear. There shall be not more than six sets of disconnects per service grouped in any one location.

For the purpose of this section, disconnecting means installed as part of listed equipment and used solely for the following shall not be considered a service disconnecting means:

(1) Power monitoring equipment

(2) Surge-protective device(s)

(3) Control circuit of the ground-fault protection system

(4) Power-operable service disconnecting means

(B) Single-Pole Units. Two or three single-pole switches or breakers, capable of individual operation, shall be permitted on multiwire circuits, one pole for each ungrounded conductor, as one multipole disconnect, provided they are equipped with identified handle ties or a master handle to disconnect all conductors of the service with no more than six operations of the hand.

Informational Note: See 408.36, Exception No. 1 and Exception No. 3, for service equipment in certain panelboards, and see 430.95 for service equipment in motor control centers.

Chris Higgins submitted the following written comments:

Recommend additional changes as follows to the already proposed rewrite of 210.8(A).

210.8(A)(2) GFCI protection for garage and accessory building receptacles.

Exceptions to (A)(2): The following conditions shall not be required to have ground-fault circuit-interrupter protection:

1. A dedicated ceiling mounted receptacle for a garage door opener.
2. A single receptacle supplied by a dedicated branch circuit that is located and identified for specific use by a cord- and plug-connected appliance such as a refrigerator or freezer.
3. A dedicated receptacle supplying a permanently installed fire alarm or security alarm system.
4. A dedicated receptacle supplying a sump pump.

Receptacles installed under exception to 210.8(A)(2) shall not be considered as meeting the requirements of 210.52(G).

210.8(A)(5) Unfinished portions or areas of the basement not intended as habitable rooms.

Exceptions to (A)(5): The following conditions shall not be required to have ground-fault circuit-interrupter protection:

1. A receptacle supplying only a permanently installed fire alarm or burglar alarm system.
2. A single receptacle supplying a permanently installed sump pump.
3. A single receptacle supplied by a dedicated branch circuit that is located and identified for specific use by a cord- and plug-connected appliance such as a refrigerator or freezer.

Receptacles installed under exception to 210.8(A)(5) shall not be considered as meeting the requirements of 210.52(G).

No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on October 15, 2020.

Fiscal Impact

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

Jobs Impact

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

Waivers

Pursuant to the provisions of rule 661—10.222(17A), the Department does not have authority to waive requirements established by statute. Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the provisions of rule 661—10.222(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 January 1, 2021.

The following rule-making action is adopted:

Amend **661—Chapter 504** as follows:

CHAPTER 504
STANDARDS FOR ELECTRICAL WORK

661—504.1(103) Installation requirements. The provisions of the National Electrical Code, ~~2017~~ 2020 edition, published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02169-7471, are adopted as the requirements for electrical installations performed by persons licensed pursuant to 661—Chapters 500 through 503 and to installations subject to inspection pursuant to Iowa Code chapter 103 with the following amendments:

504.1(1) ~~Delete section 210.12(D).~~ Delete section 210.8(A) and insert in lieu thereof the following new section:

210.8(A) Dwelling Units.

All 125-volt receptacles installed in locations specified in 210.8(A)(1) through 210.8(A)(11) shall ground-fault circuit-interrupter protection for personnel.

(1) Bathrooms

(2) Garages and also accessory buildings that have a floor located at or below grade level not intended to be habitable rooms and limited to storage areas, work areas or similar use

(3) Outdoors

Exception to (3): Receptacles that are not readily accessible and are suppled branch circuit dedicated to electrical snow-melting, deicing, or pipeline and vessel heating equipment shall be permitted to be installed in accordance with 426.28 or 427.22, as applicable.

(4) Crawl spaces – at or below grade level

(5) Basements

Exception to (5): A receptacle supplying only a permanently installed fire alarm or burglar alarm system shall not be required to have ground-fault circuit-interrupter protection.

Informational Note: See 760.41B and 760.121(B) for power supply requirements for fire alarm systems.

Receptacles installed under the exception to 210.8(A)(5) shall not be considered as meeting the requirements of 210.52(G)

(6) Kitchens – where the receptacles are installed to serve the countertop surfaces

(7) Sinks – where receptacles are installed within 1.8 m (6 ft) from the top inside edge of the bowl of the sink

(8) Boathouses

(9) Bathtubs or shower stalls – where receptacles are installed within 1.8 m (6 ft) of the outside edge of the bathtub or shower stall

(10) Laundry areas

Exception to (1) through (3), (5) through (8), and (10): Listed locking support and mounting receptacles utilized in combination with compatible attachment fittings installed for the purpose of serving a ceiling luminaire or ceiling fan shall not be required to be ground-fault circuit-interrupter protected. If a general-purpose convenience receptacle is integral to the ceiling luminaire or ceiling fan, GFCI protection shall be provided.

(11) Indoor damp and wet locations

504.1(2) ~~Delete section 406.4(D)(4).~~ Delete section 210.8(F).
This rule is intended to implement Iowa Code chapter 103.

[Filed 10/20/20, effective 1/1/21]
[Published 11/18/20]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/18/20.

ARC 5288C

REVENUE DEPARTMENT[701]

Adopted and Filed

Rule making related to local assessors

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

Legal Authority for Rule Making

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

State or Federal Law Implemented

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

Purpose and Summary

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

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

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

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 23, 2020, as **ARC 5182C**. A virtual public hearing was held on October 13, 2020, at 1:30 p.m.

Description of comments at public hearing: The Department received multiple comments at its public hearing. Below is a description of the comments received.

Special counsel (Item 3): It was suggested that this rule exceeds the authority granted by the statute and would be overly burdensome.

Confirmation by Director/assessor reappointment (Items 4 to 7): It was suggested that the Department has exceeded its rule-making authority in promulgating a limitation on when assessors may be reappointed by the conference board (150 days before the end of an assessor's term) and that the Department does not have authority to promulgate rules regarding the reappointment of an assessor. The mayor of Clinton called to express that he does not approve of the confirmation powers granted to the Director under the rule.

Assessors may not assess own property (Item 2): It was asked who will be assessing the assessor's property, if not the assessor.

Description of comments received during comment period: The Department received a number of comments during the comment period. Below is a description of the comments received.

Appeals (Item 1): Clarification as to the applicability of Iowa Code section 421.60(4) was requested, as the proposed rule states that Iowa Code section is cross-referenced in rule. This assessor pointed out an inadvertent cross-reference.

Assessor shall not assess own property (Item 2): One assessor suggested that reporting not be required or be minimized in even-numbered years if property values do not change from odd- to even-numbered years.

Special counsel (Item 3): It was suggested that this rule exceeds the authority of the statute, that the rule is unnecessary and burdensome, and that county attorney offices are not always equipped to defend assessment appeals. Additionally, an assessor suggested that conference boards might be concerned about spending too much money on outside counsel and settle challenged assessments for amounts below market value, which would shift the tax burden to residential homeowners. Multiple assessors suggested it would be challenging to obtain requisite approval by conference boards because it is already challenging to obtain a quorum for conference board action only a handful of times per year. One county attorney commented, suggesting that the conference board should continue to have the authority to decide whether to employ special counsel.

Confirmation by Director/assessor reappointment (Items 4 to 7): It was suggested that the Department has exceeded its rule-making authority by promulgating a 150-day limitation on when an assessor may be reappointed and that the Department does not have authority to promulgate rules regarding the reappointment of an assessor. It was asserted that these powers rest solely with the conference board. The current litigation between the Department and Guthrie County was listed as a potential problem with respect to reappointment powers. Additionally, it was suggested that reappointment power could lead to influential taxpayers exerting political pressure on the Director to influence an assessor's decisions on their property, politicizing the assessor's office. It was also suggested that it could be difficult to obtain a conference board quorum to reappoint an assessor in the new time frame and that the assessor, as clerk of the conference board, should not prepare the statement of misconduct, etc. Assessors also suggested that charges of misconduct, etc., be substantiated first, and be considered by the Department at the time of the charges, and that it is unfair to assessors to hold reappointments around the same time that taxpayers are notified of assessment increases.

Assessors expressed that the assessor position is local, and not a state position with respect to the background check. Some concern as to whether the background check information would be confidential was expressed. Some assessors questioned the purpose of the background check. Finally, the Iowa State Association of Assessors (ISAA) commented that the rules should specify that only proven charges or evidence of misconduct, etc., should be considered in the confirmation process.

Changes from the Notice:

After considering the above comments, the Department has made two changes to its rule making. First, in Item 1, the appeal process was clarified to exclude Iowa Code section 421.60(4) as referenced in the Iowa Administrative Code. Previously, Item 1 was written as if Iowa Code section 421.60(4) was explicitly referenced in subrule 7.17(8). The revision clarifies that this Iowa Code section is not cross-referenced within subrule 7.17(8).

Additionally, in Item 6, the 150-day restriction for assessor reappointments was extended to a 180-day window to allow conference boards an additional month to meet to decide whether to reappoint an assessor. This meeting would occur once every six years.

The Department has determined that it has the authority to promulgate the rules set forth in this rule making. The Director has broad supervision authority over the administration of the assessment and tax laws of the state and over officers or boards in the performance of their official duties in all matters relating to assessments and taxation, to the end that all assessments of property and taxes levied on the property be made relatively just and uniform in substantial compliance with the law.

Specifically, related to the authority to promulgate rules regarding the reappointment of assessors, the Department notes that Iowa Code section 441.8(1) states "[a]ppointments for each succeeding term shall be made in the same manner as the original appointment..." Iowa Code section 441.6 sets forth the process for the original appointment. As of July 1, 2020, Iowa Code section 441.6 includes new Iowa Code subsection 441.6(3) providing that the Director of Revenue must confirm an appointment before said appointee assumes office. Therefore, the Director's confirmation is part of the original appointment process and applies to the reappointment process as well.

Adoption of Rule Making

This rule making was adopted by the Department on October 28, 2020.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

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 23, 2020.

The following rule-making actions are adopted:

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

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

7.37(1) *Appeal process.* Any assessor or conference board wishing to contest the director's rejection of the conference board's appointment or reappointment of an assessor under 701—subrule 72.15(4) or 72.16(3) shall file an appeal, in writing, within 30 days of the director's notice of decision. Any person who does not seek an appeal within 30 days of the director's notice shall be precluded

from challenging the director's decision. Appeals will be governed by the procedures set forth in this rule together with the process set forth in the following rules: rule 701—7.8(17A), excluding the first sentence of the introductory paragraph of 701—7.8(17A) and excluding subrules 7.8(1) to 7.8(7); subrules 7.8(8) and 7.8(9); subrule 7.8(10), except the clerk of the hearings section will file the protest file to the division of administrative hearings within ten days; subrules 7.9(1) and 7.9(2); rule 701—7.10(17A); paragraphs 7.11(2)*"d"* and *"e"*; subrules 7.12(2) to 7.12(4); subrules 7.12(7) and 7.12(8); rule 701—7.13(17A); rule 701—7.14(17A); rule 701—7.15(17A); rule 701—7.16(17A); subrules 7.17(1) to 7.17(7); subrule 7.17(8), except 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) *Contents.* The appeal shall contain the following in separate numbered paragraphs:

a. A statement of the department action giving rise to the appeal.

b. The date of the department action giving rise to the appeal.

c. Each error alleged to have been committed, listed as a separate paragraph. For each error listed, an explanation of the error and all relevant facts related to the error shall be provided.

d. Reference to the particular statutes, rules, or agreement terms, if known.

e. References to and copies of any documents or other evidence relevant to the appeal.

f. Any other matters deemed relevant to the appeal.

g. A statement setting forth the relief sought.

h. The signature, mailing address, and telephone number of the person or that person's representative.

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

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

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

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

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

71.27(2) *Report to the department.*

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

(1) Properties owned by the assessor;

(2) Properties owned by a member of the assessor's immediate family;

(3) Properties in which the assessor or a member of the assessor's immediate family has a financial interest;

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

(5) Properties owned by a deputy assessor;

(6) Properties owned by a member of the deputy assessor's immediate family;

(7) Properties in which a deputy assessor or a member of a deputy assessor's immediate family has a financial interest;

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

b. Not later than March 1 of each year, assessors, and in the case that an assessing jurisdiction has a deputy assessor, deputy assessors, shall report to the director, using forms and procedures prescribed

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

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

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

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

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

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

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

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

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

701—71.28(441) Special counsel.

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

71.28(2) In the event special counsel is employed, the assessor shall provide the department with written notice of said employment, including the matter being litigated, justification for the hiring of special counsel, and the special counsel's name and hourly rate, within ten days of the hiring. In the event that special counsel has been employed by the conference board as of December 23, 2020, the assessor shall provide the department with written notification of said employment, including the matter being litigated, justification for the hiring of special counsel, and the special counsel's name and hourly rate, within ten days of December 23, 2020, for each case. On or before January 1 of each year, the assessor shall submit to the director, on forms prescribed by the director, a report of all matters litigated by special counsel in the previous 12-month period and the cost of said litigation for each case.

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

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

72.15(1) *Meeting of the conference board.* At the time specified in Iowa Code section 441.6, the conference board shall hold a meeting and take action to appoint an assessor or request permission to hold a special examination. Within ten days of this meeting, the conference board shall notify the director of the appointment or request a special examination. The notice shall include a statement by the conference board stating whether there have been any charges or evidence of any misconduct,

nonfeasance, malfeasance, or misfeasance against the appointee. If there have been charges or evidence of any misconduct, nonfeasance, malfeasance, or misfeasance against the appointee, the notice shall include a summary of the misconduct, nonfeasance, malfeasance, or misfeasance and any action taken regarding the misconduct, nonfeasance, malfeasance, or misfeasance. For purposes of this rule, "misconduct" means the same as defined in Iowa Code section 441.9.

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

72.15(4) *Confirmation by the director of revenue.*

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

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

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

72.16(1) *Time for reappointment.* A conference board must decide whether to reappoint an incumbent assessor at least 90 days before the expiration of the incumbent's term. If the incumbent is not to be reappointed, the conference board shall so notify the incumbent in writing at least 90 days before the expiration of the incumbent's term. Failure of the conference board to provide timely notification of the decision not to reappoint the assessor shall result in the assessor being reappointed. In no case may an incumbent assessor be reappointed earlier than 180 days before the expiration of the incumbent's term. Within ten days of reappointment or notification of expiration of the incumbent's term, the conference board shall notify the director of the reappointment or notification of expiration of the incumbent's term. If the conference board reappoints an incumbent assessor, the notice shall include a statement by the conference board stating whether there have been any charges or evidence of any misconduct, nonfeasance, malfeasance, or misfeasance against the appointee. If there have been charges or evidence of any misconduct, nonfeasance, malfeasance, or misfeasance against the appointee, the notice shall include a summary of the misconduct, nonfeasance, malfeasance, or misfeasance and any action taken regarding the misconduct, nonfeasance, malfeasance, or misfeasance. For purposes of this rule, "misconduct" means the same as defined in Iowa Code section 441.9.

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

72.16(3) *Confirmation by the director of revenue.*

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

b. Immediately following selection by the conference board, the appointee assessor shall submit information to the director as required for the director or designee to conduct a background check. The

director or designee may review the department's records and other records in considering whether to confirm the reappointment of an assessor.

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

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

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[Published 11/18/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/18/20.

ARC 5289C

REVENUE DEPARTMENT[701]

Adopted and Filed

Rule making related to declaration of value forms

The Revenue Department hereby amends Chapter 79, "Real Estate Transfer Tax and Declarations of Value," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 421.14.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 428A.1.

Purpose and Summary

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

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 23, 2020, as **ARC 5184C**. A virtual public hearing was held on October 13, 2020. There was some concern expressed at the hearing that the amended rule would require that recorders submit the declaration of value (DOV) form directly to the Department, which would be contrary to statutory requirements and would change workflow for recorders. The concern that the amended rule would require recorders, and not assessors, to submit the DOV form directly to the Department was reiterated via email comments. Additionally, one assessor commented that this new process would be overly burdensome, since the assessor's staff would need to investigate sales and properly process DOV forms. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on October 28, 2020.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

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 23, 2020.

The following rule-making action is adopted:

Amend subrule 79.3(3) as follows:

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

[Filed 10/28/20, effective 12/23/20]
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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/18/20.

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

To protect public health and promote efficient government operations during the COVID-19 outbreak, the format of a public hearing on a notice of intended action (NOIA) scheduled and published in the Iowa Administrative Bulletin (IAB) may be changed, without further publication in the IAB, from an in-person hearing at a physical location to a hearing conducted solely via telephonic or electronic means. For information on whether the format of a public hearing as published in the IAB has changed and how to participate telephonically or electronically in such a hearing, see the Internet site of the relevant agency or contact the agency directly using the contact information published in the NOIA. See also section 111 of the Governor's proclamation of disaster emergency issued November 10, 2020: governor.iowa.gov/sites/default/files/documents/Public%20Health%20Proclamation%20-%202020.11.10.pdf.