



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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Publications Editing Office (Administrative Code)

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Telephone: (515)281-3355

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

CITATION of Administrative Rules

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

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

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

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

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

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

Schedule for Rule Making 2021

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

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
14	Wednesday, December 9, 2020	December 30, 2020
15	Wednesday, December 23, 2020	January 13, 2021
16	Wednesday, January 6, 2021	January 27, 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 Agenda published in the November 18, 2020, Iowa Administrative Bulletin.

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Dog day care, euthanasia guidelines, 67.1, 67.3, 67.4(3)“b,” 67.7, 67.8, 67.9(2)“b,” 67.16
Notice **ARC 5298C** 12/2/20

EDUCATIONAL EXAMINERS BOARD[282]

EDUCATION DEPARTMENT[281]“umbrella”
 Military exchange license issuance—removal of fee, 12.1, 13.17(3)“f” Filed **ARC 5304C** 12/2/20
 Dyslexia specialist endorsement, 13.28(36) Notice **ARC 5293C** 12/2/20
 Substitute authorizations, 13.16, 22.2, 24.4 Filed **ARC 5303C** 12/2/20

HUMAN SERVICES DEPARTMENT[441]

Medical and remedial services, 9.12(1)“a,” 78.12, 78.19(1)“a,” 78.27, 78.34, 78.41(9),
 78.43(14), 78.52(4)“b,” 79.1, 81.13(14)“b,” 153.55(2)“d” Filed **ARC 5305C** 12/2/20
 Nursing facilities—quality assurance assessment, 36.6(2) Filed **ARC 5306C** 12/2/20
 Day habilitation services, 77.25(7), 77.37(27), 78.27(8), 78.41(14) Filed **ARC 5307C** 12/2/20

PUBLIC SAFETY DEPARTMENT[661]

Devices and methods to test body fluids for alcohol or drugs, 157.2(2), 157.5(2), 157.7
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 Ignition interlock devices, 158.2 to 158.9 Notice **ARC 5300C** 12/2/20
 Flammable and combustible liquids, amendments to ch 221 Notice **ARC 5296C** 12/2/20
 Aboveground flammable or combustible storage tanks, amendments to ch 224 Notice **ARC 5299C** 12/2/20

REVENUE DEPARTMENT[701]

Electronic return filings; copies and facsimiles of signatures, 7.5(3), 8.2
Notice **ARC 5294C**, also Filed **Emergency ARC 5291C** 12/2/20
 Adoption tax credit—qualified adoption expenses, 42.52 Filed **ARC 5308C** 12/2/20
 Homestead tax credit; military service tax exemption, 80.1, 80.2 Filed **ARC 5310C** 12/2/20
 Agricultural production; silviculture; aquaculture; plants, 211.1, 226.12, 226.18 Filed **ARC 5309C** 12/2/20

TRANSPORTATION DEPARTMENT[761]

Removal of “variance” in reference to “waiver or variance,” 11.1(1), 112.12(2)“c” Filed **ARC 5301C** 12/2/20
 Signing on primary highways—traffic and safety bureau, Iowa medal of honor highway,
 amendments to ch 131 Notice **ARC 5290C** 12/2/20
 Special permits for operation and movement of vehicles and loads of excess size and weight,
 511.2(4), 511.4(2)“a,” 511.5, 511.7, 511.8(1)“e,” 511.9, 511.12, 511.15(4) Notice **ARC 5292C** 12/2/20
 Driver’s license or nonoperator’s identification indicators—autism status, “hard of hearing,”
 605.5(7), 605.10, 630.2(4) Filed **ARC 5302C** 12/2/20

VETERINARY MEDICINE BOARD[811]

Disclosure of patient records, 12.4(2) Notice **ARC 5297C** 12/2/20

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

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Imogene, Iowa 51645

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

Senator Pam Jochum
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Administrative Rules Coordinator
Governor's Ex Officio Representative
Capitol, Room 18
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Telephone: (515)281-5211

NOTE: See also the Advisory Notice on page 1152.

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Dog day care, euthanasia guidelines, 67.1, 67.3, 67.4(3)“b,” 67.7, 67.8, 67.9(2)“b,” 67.16 IAB 12/2/20 ARC 5298C	Via conference call Dial: 866.685.1580 Access code: 742 290 3352#	December 29, 2020 11 a.m. to 12 noon
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EDUCATIONAL EXAMINERS BOARD[282]

Dyslexia specialist endorsement, 13.28(36) IAB 12/2/20 ARC 5293C	Board Room 701 E. Court Ave., Suite A Des Moines, IA 50319	December 30, 2020 1 p.m.
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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.
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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.
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TRANSPORTATION DEPARTMENT[761]

Signing on primary highways—traffic and safety bureau, Iowa medal of honor highway, amendments to ch 131 IAB 12/2/20 ARC 5290C	Via conference call Contact Tracy George Email: tracy.george@iowadot.us	December 28, 2020 9 to 10 a.m. (If requested)
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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 5298C**AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]****Notice of Intended Action****Proposing rule making related to animal welfare
and providing an opportunity for public comment**

The Agriculture and Land Stewardship Department hereby proposes to amend Chapter 67, “Animal Welfare,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 162.16.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 162.

Purpose and Summary

The purpose of this proposed rule making is to accomplish the following:

- Allow for larger dog playgroups, of up to 30 dogs, while maintaining the same 15 dogs to one person ratio.
- Decrease allowable play area size from 75 square feet per dog to 50 square feet per dog.
- Allow overnight group housing of dogs within dog day cares.
- Update euthanasia guidelines to the most current version of the American Veterinary Medical Association Guidelines.
- Update language for consistency.

Fiscal Impact

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

Jobs Impact

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

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 21—Chapter 8.

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 22, 2020. Comments should be directed to:

Maury Noonan
Iowa Department of Agriculture and Land Stewardship
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa
Email: rules@iowaagriculture.gov

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

Public Hearing

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

December 29, 2020
11 a.m. to 12 noon

Via conference call
866.685.1580
Access code: 742 290 3352#

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

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rule **21—67.1(162)**, definition of “Ample space,” as follows:
“~~Ample Adequate~~ *space*” means the animals contained within the primary enclosure all must have the ability to comfortably turn about, stand erect, sit or lie with limbs fully extended.

ITEM 2. Amend paragraph **67.3(1)“e”** as follows:
e. ~~Ample Adequate~~ lighting shall be provided by natural or artificial means, or both, during sunrise to sunset hours to allow efficient cleaning of the facilities and routine inspection of the facilities and animals contained therein.

ITEM 3. Amend paragraph **67.3(2)“d”** as follows:
d. The shape and size of the enclosure shall afford ~~ample adequate~~ space for the individual animals within the enclosure. ~~Ample Adequate~~ space includes, but is not limited to, allowing the animal the ability to comfortably reposition, turn about, stand erect, sit or lie while limbs are fully extended. Cats must have adequate space for a litter box so that litter does not contaminate food and water.

ITEM 4. Amend paragraph **67.3(2)“g”** as follows:
g. Group housing is permitted for animals that are compatible with one another, except as otherwise stated herein. ~~Ample Adequate~~ space shall be provided to prevent crowding and to allow freedom of movement and comfort to animals of the size which are housed within the primary enclosure. No more than 12 adult dogs or cats may be housed in the same primary enclosure. Dogs and cats shall not be housed in the same primary enclosure.

ITEM 5. Amend paragraph **67.4(3)“b”** as follows:
b. Sick, diseased or injured animals shall be provided with prompt veterinary care or disposed of by euthanasia. Euthanasia must be performed in a manner deemed acceptable by and published in the American Veterinary Medical Association Guidelines for Euthanasia of Animals: ~~2013~~ 2020 Edition.

ITEM 6. Amend paragraph **67.7(1)“e”** as follows:
e. Group housing is permitted only if the animals are owned by the same person and are compatible, except as where permitted under rule 21—67.8(162) regarding dog day care.

ITEM 7. Amend paragraph **67.7(2)“a”** as follows:
a. Dogs, cats and other vertebrates upon which euthanasia may be permitted by law shall be destroyed only by euthanasia in a manner deemed acceptable by and published in the American Veterinary Medical Association Guidelines for Euthanasia of Animals: ~~2013~~ 2020 Edition.

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

ITEM 8. Amend subrule 67.8(2) as follows:

67.8(2) Subclassification of license. Dog day cares can operate as a subclassification of a commercial kennel license or boarding kennel license, including group housing, by complying with the rules herein. ~~A commercial kennel or a boarding kennel that operates as a dog day care shall not provide overnight boarding or other kennel activities unless, during the time that the day care operation is closed, the kennel is operated in a manner consistent with applicable rules including, but not limited to, paragraphs 67.3(1) “j” and 67.7(1) “e,” which restrict the commingling of dogs.~~

ITEM 9. Amend paragraphs **67.8(4)“a”** to **“c”** as follows:

a. Group interaction is permitted for dogs, including dogs owned by different owners, that are compatible with one another. A facility licensed as a dog day care shall comply with all requirements in this rule during all hours of operation. Dog day cares may operate overnight.

b. The play area for dogs shall provide for a minimum of ~~75~~ 50 square feet per dog. Play areas ~~smaller than 1,125 square feet~~ must have a sign placed at the entry of the play area stating the maximum number of dogs allowed in the play area at any one time.

c. Each dog attending a dog day care must have a primary enclosure. When not under direct supervision, dogs at a dog day care must be housed within a primary enclosure at all times. Group housing within a primary enclosure is permitted for dogs from the same household that are compatible with one another: as provided for in paragraph 67.3(2) “g.”

ITEM 10. Amend paragraph **67.8(6)“f”** as follows:

f. A dog day care shall not establish a playgroup composed of more than ~~15~~ 30 dogs.

ITEM 11. Amend paragraph **67.8(6)“g”** as follows:

g. A dog day care shall employ sufficient staffing so that there is a minimum of one person assigned to each playgroup with 15 or fewer dogs and two people assigned to each playgroup with 16 to 30 dogs. The ~~person~~ person(s) supervising a playgroup must provide direct and immediate visual supervision at all times.

ITEM 12. Amend paragraph **67.9(2)“b”** as follows:

b. ~~Ample~~ Adequate lighting shall be provided by natural or artificial means, or both, during sunrise to sunset hours. Animals shall be protected from excessive illumination.

ITEM 13. Amend rule 21—67.16(162) as follows:

21—67.16(162) Acceptable forms of euthanasia. The euthanasia of all animals kept in facilities regulated under Iowa Code chapter 162 and these rules shall be performed in a manner deemed acceptable by and published in the American Veterinary Medical Association Guidelines for Euthanasia of Animals: ~~2013~~ 2020 Edition. A copy of this report is on file with the department.

ARC 5293C

EDUCATIONAL EXAMINERS BOARD[282]

Notice of Intended Action

Proposing rule making related to dyslexia specialist endorsement and providing an opportunity for public comment

The Educational Examiners Board hereby proposes to amend Chapter 13, “Issuance of Teacher Licenses and Endorsements,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 272.2 and 2020 Iowa Acts, Senate File 2356.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, 2020 Iowa Acts, Senate File 2356.

Purpose and Summary

2020 Iowa Acts, Senate File 2356, directs the Board to collaborate with the Iowa Reading Research Center to create a dyslexia specialist endorsement. The new proposed subrule is the result of that collaboration, and would create the new endorsement for Iowa licensed teachers.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

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

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

Public Hearing

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

December 30, 2020
1 p.m.

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

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

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

Review by Administrative Rules Review Committee

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

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

The following rule-making action is proposed:

Adopt the following **new** subrule 13.28(36):

13.28(36) Dyslexia specialist. K-12. The applicant must have met the requirements for the standard license and have completed at least three years of post-baccalaureate teaching experience in a K-12 setting.

a. Authorization. The holder of this endorsement is authorized to serve as a dyslexia specialist in kindergarten and grades one through twelve.

b. Content. Completion of 18 semester hours in dyslexia strategies to include the following:

(1) Knowledge of dyslexia. The dyslexia specialist will have knowledge of dyslexia and:

1. Understand the tenets of the International Dyslexia Association's definition of dyslexia, including the neurobiological nature and cognitive-linguistic correlates.

2. Identify distinguishing characteristics of dyslexia and commonly co-occurring disorders, including dysgraphia, dyscalculia, attention deficit hyperactivity disorder, expressive language disorders, receptive language disorders, and others.

3. Recognize that dyslexia may present differently along a continuum of severity and impact depending upon age, grade, and compensatory factors.

4. Understand federal and state laws that pertain to dyslexia, including use of the word "dyslexia" within school settings and documentation.

5. Understand common misconceptions regarding characteristics of and interventions for dyslexia.

(2) Psychology of language and reading. The dyslexia specialist will understand the highly complex processes by which children learn to speak, read, and write, including language acquisition, linguistics, and the structure of written language, including phonological processing, phonics, orthography, morphology, syntax, and semantics, as well as the relationship of these components to typical and atypical reading and writing development and instruction for students with dyslexia.

(3) Curriculum and instruction. The dyslexia specialist will use appropriate instructional approaches and materials as well as integrated, comprehensive, explicit, and systematic literacy instruction to support student learning in reading and writing, including the following:

1. Instruction utilizing multisensory and multimodal strategies (visual, auditory, kinesthetic, and tactile), systematic and cumulative instruction, direct instruction, diagnostic and prescriptive teaching, as well as synthetic and analytic instruction.

2. Instructional approaches supported by the science of reading for the following areas: phonological processing, phonics, fluency, comprehension, vocabulary, spelling, and writing.

3. Creation of a dyslexia-friendly learning environment (within or outside the regular classroom) utilizing evidence-based accommodations and modifications to meet the needs of students with dyslexia, including appropriate interventions, remediation, assistive technology, and classroom accommodations for students with dyslexia.

4. Use of data to determine effectiveness of the instruction and curriculum along with student responsiveness to it.

(4) Assessment, diagnosis, and evaluation. The dyslexia specialist will be confident using a variety of formal assessment tools and practices to evaluate students' reading and writing abilities in a variety of domains. The dyslexia specialist will:

1. Demonstrate an understanding of the literature and research related to assessments and their purposes (including the strengths and limitations of assessments) and assessment tools for screening, diagnosis, progress monitoring, and measuring outcomes.

2. Demonstrate an understanding of the signs and symptoms of reading difficulties, including but not limited to dyslexia; and also demonstrate an understanding of norms and student benchmarks.

3. Select, administer, and interpret assessments for specific purposes, including screening students at risk for dyslexia and identifying students who display a profile of dyslexia, and:

- Understand the features of standardized norm-referenced assessments.

- Understand the importance of selecting reliable and valid assessments to evaluate typical and atypical reading development.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

- Interpret various scores derived from standardized norm-referenced and criterion-referenced assessments.
 - 4. Use assessment information to plan and evaluate instruction, including appropriate interventions, remediation, assistive technology, and classroom accommodations for students with dyslexia and other difficulties. This will include the use of multiple data sources for analysis, instructional planning, examining the effectiveness of specific intervention practices, and examining students' responses to interventions.
 - 5. Communicate assessment results and implications to a variety of audiences, including staff, parents, and students.
 - 6. Understand appropriate IEP goals and Section 504 plans for students who display characteristics of dyslexia.
- (5) Practicum in dyslexia. The dyslexia specialist will participate in elementary and secondary practicum experiences with instructors who have experience with and are currently serving students who display characteristics of dyslexia. The cooperating teacher must be approved by the Iowa reading research center. The practicum must include:
1. Supervised administration of norm-referenced literacy assessments.
 2. Practice composing a report of literacy assessment results that will include interpretation of the results and instructional recommendations.
 3. Supervised delivery of systematic, explicit, and multisensory intervention for students with characteristics of dyslexia.
 4. Practice composing a report of students' response to intervention.

ARC 5295C**PUBLIC SAFETY DEPARTMENT[661]****Notice of Intended Action****Proposing rule making related to breath testing and standards for drug detection and providing an opportunity for public comment**

The Public Safety Department hereby proposes to amend Chapter 157, "Devices and Methods to Test Body Fluids for Alcohol or Drugs," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 321J.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 321J.2.

Purpose and Summary

These proposed amendments to Chapter 157 modify the frequency with which evidentiary breath test devices must be certified. This amendment is made to ensure a balance between the Division of Criminal Investigation laboratory staff resources and confirmation of accurate devices.

Additionally, the Department proposes amendments to controlled substance screening levels to allow for alternatives to immunoassay screening and to keep testing in line with the federal standards. The current language in the rule does not reference the correct and updated federal registry and associated wording for initial screening for certain drugs or categories of drugs and their metabolites. In short, the Department is amending the rule to match the content in the current federal registry. The impact to the testing laboratory and stakeholders is that the revised federal registry allows for alternate technologies to immunoassay screening for drugs. The Department's laboratory is working on validation of one of those alternate technologies, which provides more specificity in the screening process. The Department cannot start using that technology for casework until the proposed amendments to the rule are adopted and

PUBLIC SAFETY DEPARTMENT[661](cont'd)

become effective. Forensic toxicology laboratories are more often moving to alternate technologies to immunoassay screening. Immunoassay screening can be less specific and typically relies on proprietary test kits. If the vendor has a supply or quality issue, the turnaround time for the initial screening result can be greatly impacted.

Finally, the American National Standards Institute-accredited American Academy of Forensic Science Standards Board, with the support of the National Highway Traffic and Safety Administration, is in the process of approving testing parameters for drug testing tailored for impaired driving, and the Department anticipates additional rule making at that time.

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

Pursuant to the provisions of rule 661—10.222(17A), the Department does not have authority to waive requirements established by statute. 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 22, 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:

PUBLIC SAFETY DEPARTMENT[661](cont'd)

ITEM 1. Amend subrule 157.2(2) as follows:

157.2(2) A peace officer desiring to perform testing of a subject's breath for the purpose of determining the alcohol concentration shall employ, or cause to be used, a breath testing device of a type meeting the minimum performance requirements established in Highway Safety Programs; Model Specifications for Devices to Measure Breath Alcohol, Federal Register, Volume 58, No. 179 (September 17, 1993), pp. 48705-48708. All devices so used must be certified to be in proper working order within a period of one year immediately preceding use at least once per calendar year according to procedures specified for that device. The interval between certifications shall not be more than 450 days.

ITEM 2. Amend subrule 157.5(2) as follows:

157.5(2) Any peace officer using an approved device shall follow the instructions furnished by the manufacturer for use of such a device. The calibration of each unit shall be checked at least once per month, and the device shall be calibrated, if necessary, using a dry gas standard. The officer or officer's department shall maintain a record of each calibration. This record shall include:

- a. The identity of the ~~officer~~ person performing the calibration.
- b. The date.
- c. The value ~~and type~~ of standard used.
- d. The unit type and identification number.
- e. The expiration date of the standard used.

ITEM 3. Amend rule 661—157.7(321J) as follows:

661—157.7(321J) Detection of drugs other than alcohol.

157.7(1) *Adoption of federal standards.* Initial test requirements based upon standards adopted by the federal Substance Abuse and Health Services Administration in "Mandatory Guidelines for Federal Workplace Drug Testing Programs," ~~73 FR 71858~~ 82 FR 7920, and displayed in the following table are hereby adopted as standards for determining detectable levels of controlled substances in the division of criminal investigation criminalistics laboratory initial screening for controlled substances detected by the presence of the following: marijuana metabolites, cocaine metabolites, opiate metabolites, acetylmorphine, phencyclidine, and amphetamines hydrocodone/hydromorphone, oxycodone/oxymorphone, 6-acetylmorphine, phencyclidine, amphetamine/methamphetamine, and MDMA/MDA. The following table shows the minimum levels of these substances which will result in a finding that a controlled substance is present at a detectable level:

Substance Initial test analyte	Minimum Level (ng/ml) Initial test cutoff ¹
Marijuana metabolites (THCA) ²	50 <u>ng/ml</u> ³
Cocaine metabolites (Benzoylecgonine)	150 <u>ng/ml</u> ³
Opiate metabolites —codeine/morphine Codeine/Morphine	2000 <u>ng/ml</u>
Acetylmorphine Hydrocodone/Hydromorphone	40 300 <u>ng/ml</u>
Phencyclidine Oxycodone/Oxymorphone	25 100 <u>ng/ml</u>
Amphetamines ² —(amphetamine, methamphetamine, and —methylenedioxymethamphetamine) 6-Acetylmorphine	500 10 <u>ng/ml</u>
Phencyclidine	25 <u>ng/ml</u>
Amphetamine/Methamphetamine	500 <u>ng/ml</u>
MDMA ⁴ /MDA ⁵	500 <u>ng/ml</u>

¹ "ng/ml" means "nanograms per milliliter." For grouped analytes (i.e., two or more analytes that are in the same drug class and have the same initial test cutoff):

PUBLIC SAFETY DEPARTMENT[661](cont'd)

Immunoassay: The test must be calibrated with one analyte from the group identified as the target analyte. The cross-reactivity of the immunoassay to the other analyte(s) within the group must be 80 percent or greater; if not, separate immunoassays must be used for the analytes within the group.

Alternate technology: Either one analyte or all analytes from the group must be used for calibration, depending on the technology. At least one analyte within the group must have a concentration equal to or greater than the initial test cutoff or, alternatively, the sum of the analytes present (i.e., equal to or greater than the laboratory's validated limit of quantification) must be equal to or greater than the initial test cutoff.

² ~~Either a single initial test kit or multiple initial test kits may be used provided that the single test kit detects each target analyte independently at the specified cutoff. An immunoassay must be calibrated with the target analyte, D-9-tetrahydrocannabinol-9-carboxylic acid (THCA).~~

³ Alternate technology (THCA and benzoylecgonine): The confirmatory test cutoff must be used for an alternate technology initial test that is specific for the target analyte (i.e., 15 ng/mL for THCA, 100 ng/mL for benzoylecgonine).

⁴ Methylenedioxymethamphetamine (MDMA).

⁵ Methylenedioxyamphetamine (MDA).

157.7(2) Reserved.

ARC 5300C

PUBLIC SAFETY DEPARTMENT[661]

Notice of Intended Action

**Proposing rule making related to ignition interlock devices
and providing an opportunity for public comment**

The Department of Public Safety hereby proposes to amend Chapter 158, "Ignition Interlock Devices," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 321J.20.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 321J.20.

Purpose and Summary

The proposed amendments to Chapter 158 regarding ignition interlock devices (IIDs) increase the efficiency of the IIDs currently required by Iowa law for all offenders of the state's operating while intoxicated (OWI) law and provide better compliance-based monitoring. The proposed amendments resemble amendments previously published as **ARC 4418C** on May 8, 2019, but no longer include provisions requiring camera technology for IIDs. Taking into account the feedback of the Administrative Rules Review Committee, a decision was made to not require cameras for IIDs at this time. The amendments proposed in **ARC 4418C** were never adopted.

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 SAFETY DEPARTMENT[661](cont'd)

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 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 22, 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 rule 661—158.2(321J) as follows:

661—158.2(321J) Definitions. The following definitions apply to rules 661—158.1(321J) through 661—158.9(321J):

“Accuracy check” means the verification of the adjustment of an IID.

“Adjustment” means setting the measured alcohol result of an IID to the equivalent of the known alcohol value of the standard measured.

“Alcohol” means any member of the class of organic compounds known as alcohols and, specifically, ethyl alcohol.

“Alcohol standard” means either a certified wet bath simulator solution or a dry gas tank at a known alcohol concentration.

“Authorized service provider” or “ASP” means a person or company meeting all qualifications outlined in this chapter and approved and trained by the manufacturer to service, install, monitor or calibrate check the accuracy of IIDs approved pursuant to this chapter.

“Breath alcohol concentration” or “BrAC” means the amount of alcohol determined by chemical analysis of the individual’s breath measured in grams of alcohol per 210 liters of breath.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

“*Bypassing*” or “*tampering*” means the attempted or successful circumvention of the proper functioning of an IID including, but not limited to, the push start of a vehicle equipped with an IID, disabling, disconnecting or altering an IID, or introduction of a breath sample into an IID other than a nonfiltered direct breath sample from the driver of the vehicle in order to defeat the intended purpose of the IID.

“*DCI*” means the Iowa division of criminal investigation.

“*DOT*” means the Iowa department of transportation, office of driver and identification services.

“*Fail level*” means a BrAC equal to or greater than 0.025 grams per 210 liters of breath, at which level the IID will prevent the vehicle from starting or will indicate a violation once the vehicle is running.

“*Ignition interlock device*” or “*IID*” means an electronic device that is installed in a vehicle and that requires the completion of a breath sample test prior to starting operating the vehicle and at periodic intervals after the vehicle has been started. If the IID detects an alcohol concentration of 0.025 grams or greater per 210 liters of breath, the vehicle shall be prevented from starting.

“*Laboratory*” means the division of criminal investigation criminalistics laboratory.

“*Lessee*” means a person who has entered into an agreement with a manufacturer or an ASP to lease an IID and whose driving privileges are contingent on the use of an IID.

“*Lockout condition*” means a situation in which ~~a proper breath sample was not provided to an IID when required, or when a random retest results in an alcohol concentration equal to or greater than 0.025 BrAC. Once a lockout condition occurs, the IID shall be reset by the manufacturer or the ASP within five days, or the IID shall render the vehicle ignition incapable of starting the vehicle becomes inoperable.~~

“*Manufacturer*” means the person, company, or corporation that produced the IID.

“*Random retest*” means a breath sample that is collected in a nonscheduled, random manner after the vehicle has been started.

“*Single monitoring period*” means a period of time from when the vehicle has been started until the vehicle comes to a complete stop and the ignition is turned off.

“*User*” means a person operating a vehicle equipped with an IID.

“*Violation*” means a condition caused by either (1) failure to provide a proper breath sample to the IID during a random retest, or (2) the IID indicating a concentration exceeding the maximum allowable concentration of ~~0.025~~ 0.024 BrAC during a random retest, ~~or (3) the IID indicating that bypassing the device or tampering with the device occurred or was attempted.~~

ITEM 2. Amend rule 661—158.3(321J) as follows:

661—158.3(321J) Approval. To be approved, an IID shall meet or exceed performance standards contained in the Model Specifications for Breath Alcohol Ignition Interlock Devices (BAIIDs), as most recently published in the Federal Register, April 7, 1992, pages 11772-11787. Only a notarized an independent statement from a laboratory capable of performing the tests specified will be accepted as proof of meeting or exceeding the standards.

158.3(1) No change.

158.3(2) At the discretion of the laboratory administrator, the laboratory may accept test results from other public independent laboratories or authorities.

158.3(3) The laboratory shall maintain a list of IIDs approved by the commissioner of public safety. The list is available without cost by writing to the Iowa Department of Public Safety, Division of Criminal Investigation, Criminalistics Laboratory, 2240 South Ankeny Blvd., Ankeny, Iowa 50023; by telephoning calling (515)725-1500; or by accessing the list on the laboratory's Web site website.

NOTE: As of ~~October 1, 2009~~ November 2020, the ~~Web site website~~ of the breath alcohol testing section of the laboratory is http://www.dps.state.ia.us/DCI/Crime_Lab/index.shtml breathalcohol.iowa.gov.

158.3(4) No change.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

ITEM 3. Amend rule 661—158.4(321J) as follows:

661—158.4(321J) Revocation of approval. The approval of an IID shall remain valid until either voluntarily surrendered by the manufacturer or until the approval of the IID has been revoked by the commissioner of public safety for cause.

158.4(1) Reasons for revocation include but are not limited to the following:

158.4(1) a. Evidence of repeated IID failures due to defects in design, materials, or workmanship during manufacture, installation, or monitoring, ~~or calibration~~ of the IID such that the accuracy of the IID or the reliability of the IID as approved is not being met as determined by the laboratory.

158.4(2) b. A pattern of evidence that the mandatory operational features of the IID as described in rule 661—158.6(321J) are not functioning properly.

158.4(3) c. A pattern of evidence indicating that the IID may be easily circumvented, tampered with, or bypassed.

158.4(4) d. Any ~~violation~~ illegality on the part of the manufacturer of the IID of any laws or regulations related to the installation, servicing, monitoring, and ~~calibration~~ accuracy checks of IIDs, ~~or failure of a manufacturer to address repeated violations by an ASP.~~

e. Failure of a manufacturer to address repeated infractions by an ASP.

158.4(5) f. Cancellation of the manufacturer's required liability insurance coverage.

158.4(6) g. Cessation of business operations by the manufacturer.

158.4(7) h. Failure to notify the laboratory in writing of any material modifications or alterations to the components or the design of the approved IID.

158.4(8) i. Failure of the manufacturer or an ASP to notify the DOT and the county attorney of the county of residence of the lessee within 30 days of the discovery of evidence of tampering with or attempting to bypass an IID.

158.4(9) j. Evidence that the manufacturer or ASP(s), or its owners, employees, or agents, has committed any act of theft or fraud, deception or material omission of fact related to the distribution, installation, or operation of any IID subject to this chapter.

158.4(10) k. Revocation of approval in another state for any of the reasons for revocation listed in ~~subrules 158.4(1) through 158.4(9).~~ paragraphs 158.4(1) "a" to "j."

158.4(11) 158.4(2) A revocation shall be effective 30 days from the date of the letter sent to the manufacturer via certified mail, return receipt requested, unless ~~otherwise specified by the commissioner~~ an appeal is filed. ~~A copy of each notice of revocation shall be provided to the director of the Iowa department of transportation.~~

158.4(12) 158.4(3) Upon voluntary surrender or revocation, all IIDs subject to the surrender or revocation shall be removed and replaced by an approved IID within 60 days of the effective date of such surrender or revocation. The manufacturer or the ASP must notify all affected lessees of the surrender or revocation and the requirement that a new IID must be installed by an existing ASP within the time frame specified in this subrule. The cost associated with the removal of the IID and installation of a replacement IID will be the responsibility of the manufacturer of the revoked or voluntarily surrendered IID.

158.4(13) 158.4(4) A revocation of a previously approved IID may be appealed to the department of public safety by the filing of an appeal in accordance with the procedures specified in rule 661—10.101(17A) within ten days of the issuance of the notice of revocation.

ITEM 4. Amend rule 661—158.5(321J) as follows:

661—158.5(321J) Modifications to an approved IID. The manufacturer shall inform the laboratory in writing of any modifications that will affect the accuracy, reliability, ease of use, or general function of the approved IID. The notification shall include, but not be limited to, a listing of those modifications that were made, those components that were redesigned or replaced, and any additional alterations. Each of these changes should also include a narrative explaining how the modifications or alterations will affect the accuracy, reliability, ease of use, or general function of the IID. The laboratory reserves the right to test the IID to determine if the IID meets or exceeds the requirements established in this chapter performance

PUBLIC SAFETY DEPARTMENT[661](cont'd)

standards contained in the Model Specifications for Breath Alcohol Ignition Interlock Devices (BAIIDs), as most recently published in the Federal Register.

ITEM 5. Amend rule 661—158.6(321J) as follows:

661—158.6(321J) Mandatory operational features. In addition to any requirements established elsewhere in this chapter, an approved IID shall comply with the following.

158.6(1) No change.

158.6(2) The IID shall be designed and constructed so that ~~the ignition system of the vehicle in which it is installed will not be activated~~ operable if the breath alcohol concentration of the person using the IID exceeds ~~0.025~~ 0.024 BrAC.

158.6(3) The IID shall utilize an alcohol-specific fuel cell technology.

158.6(4) The IID shall require a minimum of 1.3 liters of continuously delivered breath prior to the acceptance of the sample.

EXCEPTION: The breath volume can be lowered at the discretion of the laboratory in situations where a physician licensed under Iowa Code chapter 148 has certified in writing that the lessee suffers from a physical or medical condition that prevents the lessee from providing the required breath volume and is requested in advance by the ASP or manufacturer.

~~**158.6(3)**~~ **158.6(5)** The IID shall prevent engine ignition if the IID has not been ~~calibrated~~ checked for accuracy within 67 days subsequent to the last ~~calibration~~ accuracy check. Calibration Accuracy checks may be required more frequently at the discretion of the manufacturer or the ASP.

EXCEPTION: The laboratory administrator may approve a ~~device~~ an IID using alcohol-specific fuel cell technology to be ~~recalibrated~~ checked for accuracy within 187 days of the previous ~~calibration~~ provided that the device passes accuracy check. In order to be approved, the IID must pass specific precision and functionality testing approved by the laboratory administrator and carried out by the laboratory or an independent laboratory ~~acceptable to the laboratory administrator~~.

~~**158.6(4)**~~ **158.6(6)** The IID shall record every instance when the vehicle is ~~started~~ operated, the results of the breath sample test, how long the vehicle was operated, and any indications that the IID may have been tampered with, ~~or bypassed, or circumvented~~.

~~**158.6(5)**~~ **158.6(7)** The IID shall require the operator to submit to a random retest ~~within 10~~ between five and ten minutes of ~~starting~~ operating the vehicle. A minimum of two additional random retests shall occur within 60 minutes of ~~starting~~ operating the vehicle, and a minimum of ~~two~~ one random ~~retests~~ retest shall occur ~~within~~ every 60 minutes thereafter. ~~Random retests may be achieved during operation of the vehicle. The IID shall enter a lockout condition within five days if two or more violations are recorded in a single monitoring period. An IID may, at the discretion of the manufacturer or the ASP, enter a lockout condition on the basis of a single violation.~~

~~**158.6(6)**~~ **158.6(8)** The IID shall permit a sample-free restart for a maximum period of two minutes unless the IID has initiated a random retest, in which case the operator must successfully perform a breath sample test before the vehicle ~~may~~ can be restarted.

158.6(9) The IID shall enter a lockout condition after five days if any of the following occur:

a. Two or more violations within a single monitoring period.

EXCEPTION: A lockout condition may be entered on the basis of a single violation at the discretion of the manufacturer or ASP.

b. Four or more violations within any 60-day period.

c. Evidence of circumvention or tampering of the IID.

d. Nonpayment of lessee's account by 30 days or more.

e. Failure to have the IID accuracy checked or serviced when required.

EXCEPTION: A lockout condition will occur seven days after a missed accuracy check.

~~**158.6(7)**~~ **158.6(10)** The IID shall automatically and completely purge residual alcohol before allowing subsequent tests.

~~**158.6(8)**~~ **158.6(11)** The IID shall be installed in such a manner that it will not interfere with the normal operation of the vehicle ~~after the vehicle has been started~~.

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~~158.6(9)~~ **158.6(12)** The IID shall be equipped with a method ~~of to~~ immediately ~~notifying~~ notify peace officers if the retest required by subrule ~~158.6(5)~~ **158.6(7)** is not performed or if the result of a random retest exceeds the alcohol concentration of ~~0.025~~ 0.024 BrAC. Examples of acceptable forms of notification are repeated honking of the vehicle's horn, ~~and~~ repeated flashing of the vehicle's headlights, ~~or both~~. Such notification may be disabled only by switching the engine off or by achievement of a retest at a level below ~~0.025~~ 0.024 BrAC.

~~158.6(10)~~ **158.6(13)** Each IID shall be uniquely identified by a serial number.

158.6(14) Along with ~~any other information required by the DOT or by an originating court,~~ all All reports to the DOT or to an originating court concerning a particular IID shall include the name, address, and driver's license number of the lessee ~~and;~~ the year, make, model, and vehicle identification number of the lessee's vehicle; the unique serial number of the handset of the IID; and ~~any other information required or requested by the DOT~~. The name, address, telephone number, and contact person of the manufacturer or the ASP furnishing the report shall also be included as part of the report.

ITEM 6. Amend rule 661—158.7(321J), introductory paragraph, as follows:

661—158.7(321J) IID security. The manufacturer and its ASPs shall take all reasonable steps necessary to prevent ~~tampering with or physical~~ the circumvention or tampering of the IID. These steps shall include the following.

ITEM 7. Amend rule 661—158.8(321J) as follows:

661—158.8(321J) IID maintenance and reports.

158.8(1) An IID utilized in accordance with the provisions of this chapter shall ~~have the calibration checked and shall be recalibrated~~ be checked for accuracy at least once every 60 days using either a certified wet bath simulator solution or dry gas standard found on the federal Conforming Products List of Calibrating Units for Breath Alcohol Testers. Accuracy checks shall be completed by the manufacturer or the ASP. Accuracy checks found to be within 0.005 grams per 210 liters or 5 percent, whichever is greater, of the reference standard will be considered accurate and no adjustment to the IID is required. ~~Calibration shall be completed by the manufacturer or the ASP.~~ In lieu of ~~calibration~~ an accuracy check of an installed IID, ~~an~~ the installed IID may be exchanged for another calibrated properly adjusted IID. The laboratory administrator may approve a device that employs fuel cell technology to be used for up to 180 days from the date of the previous ~~calibration,~~ provided that the device passes specific precision and functionality testing approved by the laboratory administrator and carried out by the laboratory or an independent laboratory acceptable to the laboratory administrator accuracy check (see the exception in subrule 158.6(5)). An IID shall automatically enter a lockout condition if the IID has not been ~~calibrated~~ checked for accuracy within 7 seven days after the deadlines established in this subrule.

158.8(2) The ~~calibration~~ service record for the IID currently installed in a vehicle pursuant to Iowa Code section 321J.4 and this chapter and for any other IID installed in the same vehicle shall be maintained by the manufacturer or the ASP. The record shall include, but is not limited to, the following:

- a. Name of the person performing the ~~calibration~~ accuracy check;
- b. Date;
- c. Value and type of standard used;
- d. Batch or lot number of standard;
- e. ~~Unit type and identification number of the IID; and~~ Expiration date of the standard;
- f. Model and serial number of the IID;
- f. g. Description of the vehicle in which the IID is installed, including:
 - (1) Registration plate number and state;
 - (2) Make;
 - (3) Model;
 - (4) Vehicle identification number;
 - (5) Year; and
 - (6) Color.

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158.8(3) The IID must be ~~calibrated~~ checked for accuracy according to the manufacturer's procedures. All data contained in the IID's memory must be downloaded, and the manufacturer or the ASP shall make a hard copy or the electronic equivalent of a hard copy of client data and results of each examination available to the DOT upon request.

158.8(4) All information obtained as a result of each inspection shall be retained by the manufacturer or the ASP for ~~five~~ three years from the date the IID is removed from the vehicle.

158.8(5) Any manufacturer or ASP who discovers evidence of avoidance of a lockout event achieved by circumventing, tampering with, or attempting to bypass an IID shall, within 30 days of the discovery, prepare a report documenting the finding and notify the DOT and the county attorney of the county of residence of the lessee of that evidence.;

a. The DOT; and

b. The county attorney of the county of residence of the lessee (Iowa residents only).

158.8(6) ~~The manufacturer or the ASP must provide, upon request, additional reports in a format acceptable to, and at no cost to, the DOT and the DCI~~ When required or requested, the manufacturer or ASP must provide report forms in a format that is acceptable to, and at no cost to, the DOT dealing with the installation; de-installation (removal); violations, including, specifically, violations due to the IID indicating a concentration exceeding the maximum allowable concentration of 0.024 BrAC; lockout events; evidence of circumvention of or tampering with an IID; and any other additional information that is required by the DOT.

158.8(7) The manufacturer or the ASP shall notify the DOT within ~~10~~ ten days if an IID is not ~~calibrated~~ checked for accuracy within the time period specified in subrule ~~158.6(3)~~ 158.6(5).

ITEM 8. Amend rule 661—158.9(321J) as follows:

661—158.9(321J) Other provisions. In addition to any other applicable provisions of this chapter, each manufacturer of an approved IID, either on its own or through its ASPs, shall comply with the following provisions.

158.9(1) Each manufacturer and ASP of IIDs approved for use in Iowa pursuant to this chapter shall maintain general liability insurance coverage that is effective in Iowa and that has been issued by an insurance carrier authorized to operate in Iowa ~~by the Iowa division of.~~ Each manufacturer must maintain general liability insurance in an amount of not less than \$1 million per occurrence and \$3 million in the aggregate. Each ASP must maintain general liability insurance in an amount of not less than \$100,000 per occurrence and \$300,000 in the aggregate. Each manufacturer and ASP shall ~~furnish~~ provide the DCI laboratory with proof of this insurance coverage in the form of a certificate of insurance from the insurance company issuing the policy. All insurance policies required by this subrule shall carry an endorsement requiring that the ~~DCI laboratory~~ be provided with written notice of cancellation of insurance coverage required by this subrule at least ten days prior to the effective date of cancellation.

158.9(2) Each manufacturer and ASP of IIDs approved for use in Iowa shall maintain an ~~E-mail~~ email address and a telephone number that are available 24 hours a day, 365 days a year, for lessees or users to contact the manufacturer or the ASP if lessees or users have problems with the IID leased from the manufacturer or the ASP.

158.9(3) Each manufacturer and ASP of IIDs approved for use in Iowa shall provide the lessee with instructions on how to properly use the IID. The instructions shall include recommending a 15-minute waiting period between the last ~~drink~~ use of an alcoholic a beverage that contains alcohol and the ~~time of initial~~ breath sample delivery into the IID.

158.9(4) No change.

158.9(5) The department of public safety, or the department of transportation, reserves the right to inspect any IID, manufacturer, or ASP at any time at the department's discretion. All records of IIDs installed, IIDs removed, results of calibrations accuracy checks, violations, evidence of attempted or successful circumvention of or tampering with an IID, and data logs, ~~and results of known alcohol standards~~ shall be made available for inspection upon request to any representatives of the department

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of public safety, the department of transportation, or any peace officer. Records shall be maintained for a minimum of three years after removal of the IID from the vehicle.

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PUBLIC SAFETY DEPARTMENT[661]

Notice of Intended Action

Proposing rule making related to flammable and combustible liquids and providing an opportunity for public comment

The State Fire Marshal hereby proposes to amend Chapter 221, “Flammable and Combustible Liquids,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 101.23.

State or Federal Law Implemented

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

Purpose and Summary

The purpose of amending Chapter 221 is to update the process for submittal of construction plans for review, plan review fees, and inspection fees and to provide contact information for the program.

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 22, 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

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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 221**, title, as follows:

FLAMMABLE ~~AND~~ OR COMBUSTIBLE LIQUIDS

ITEM 2. Amend rules 661—221.1(101) to 661—221.4(101) as follows:

661—221.1(101) Scope. This chapter provides the rules of the state fire marshal for safe transportation, storage, handling, and use of flammable ~~and~~ or combustible liquids. IFC, 2006 edition, sections 102.1 and 102.2, is adopted by reference.

221.1(1) The flammable or combustible liquids program is part of the aboveground flammable or combustible liquid storage tanks program and is located at the following address:

State Fire Marshal Division

Iowa Department of Public Safety

Attn: Aboveground Storage Tank Administration

215 East 7th Street

Des Moines, Iowa 50319

221.1(2) The program may be contacted by electronic mail at sfmast@dps.state.ia.us or by the United States Postal Service.

221.1(3) The website for the flammable or combustible liquids program is: dps.iowa.gov/divisions/state-fire-marshal/licensing/above-ground-storage-tanks.

661—221.2(101) Definitions. The following definitions shall apply to rules 661—221.1(101) through 661—221.8(101). These definitions are adopted in addition to those which appear in the International Fire Code, 2006 edition; NFPA 30, Flammable and Combustible Liquids Code, 2003 edition; and NFPA 30A, Code for Motor Fuel Dispensing and Repair Garages, 2003 edition. If a definition adopted in this rule conflicts with a definition included in a code or standard adopted by reference in this chapter, the definition found in this rule shall apply.

“*Approved by the state fire marshal*” means a laboratory which has requested and received recognition by the state fire marshal to test equipment whose use or installation is required by rules of the state fire marshal, including rules in 661—Chapters 200 through 299, inclusive. A laboratory which seeks approval of the state fire marshal shall contact the state fire marshal division and shall provide information required by the state fire marshal. Approval or disapproval shall be granted only by a letter from the state fire marshal to the laboratory making the request, although advance notice of the decision of the state fire marshal regarding whether or not approval is to be granted may be provided by electronic mail.

“*Diesel fuel*” means a liquid, other than gasoline, which is suitable for use as a fuel in a diesel fuel-powered engine and which meets the applicable standards established in Iowa Code section 214A.2 and rule 21—85.33(214A,208A). A blend of “diesel fuel” which meets these standards and contains 6

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percent biodiesel or more is “biodiesel fuel.” Diesel fuel blends which meet these standards and contain less than 6 percent biodiesel are diesel fuel and not biodiesel fuel.

“~~Fire~~ *State fire code official*” means any employee of the state fire marshal division of the department of public safety, of any local fire department, or of the department of natural resources if the employee is operating under an agreement between the department of public safety and the department of natural resources.

“*ICC*” means the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041.

“*IFC*” means the International Fire Code, published by the ICC. “IFC” will be followed by a year (e.g., IFC, 2006), which indicates the specific edition of the IFC to which reference is made.

“*Independent testing laboratory*” means a laboratory recognized by the federal Occupational Safety and Health Administration as a nationally recognized testing laboratory or a laboratory approved by the state fire marshal.

“*Listed*” means listed or approved by an independent testing laboratory for a specific use. A product shall be considered to be listed if it is of a model which has been listed for the use to which it is being put, whether it was manufactured prior to or after the date on which the listing became effective.

“*Mobile air-conditioning system*” means mechanical vapor compression equipment which is used to cool the driver or passenger compartment of any motor vehicle.

“*NFPA*” means the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269. References to the form “NFPA xx,” where “xx” is a number, refer to the NFPA standard or pamphlet of the corresponding number.

“*SPCC plan*” means a spill prevention, control and countermeasure plan, as defined in 40 CFR 112, published January 1, 2007.

“*Under dispenser containment*” or “*UDC*” means containment underneath a dispenser that will prevent leaks from the dispenser from reaching soil or groundwater.

661—221.3(101) Flammable and or combustible liquids. The International Fire Code, 2006 edition, published by the ICC, Chapter 34 and references contained therein, and NFPA 30, Flammable and Combustible Liquids Code, 2003 edition and references contained therein, are adopted by reference as the rules for transportation, storage, handling, and use of flammable ~~and~~ or combustible liquids. In any case in which a provision of the IFC conflicts with a provision of NFPA 30, the IFC provision shall apply. Any refinery shall comply with the provisions of this rule and with any applicable provisions of 661—Chapter 201.

221.3(1) The IFC, 2006 edition, is adopted with the following amendments:

a. and b. No change.

c. Add the following new sections:

3403.6.12 Each connection to an aboveground tank through which liquid can normally flow shall be provided with an external control valve that is located as close as practical to the shell of the tank. In addition to the control valve or any other normal tank valves, there shall be an emergency internal check valve at each pipe connection to any tank opening below normal liquid level. The emergency internal check valve shall be effectively located inside the tank shell and shall be operable both manually and by an effective heat-activated device that, in case of fire, will automatically close the valve to prevent the flow of liquid from the tank even though the pipelines from the tank are broken.

~~3403.6.13 Any new or replacement piping connected to an aboveground storage tank shall be double-walled unless it lies entirely within the area of secondary containment.~~

~~3403.6.14~~ 3403.6.13 Any device dispensing Class I or Class II flammable liquids shall not be constructed or installed less than 100 feet from any existing dwelling unit.

d. to f. No change.

g. Delete section 3404.2.9.1.2.1, introductory paragraph, and insert in lieu thereof the following:

3404.2.9.1.2.1 Where foam fire protection is required, it shall be provided in accordance with NFPA 11, 2005 edition, and shall be of a type or types and amount appropriate to suppress fires involving types and amounts of flammable ~~and~~ or combustible liquids found on the premises. Where the flammable

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or combustible liquid contains more than 10 percent alcohol, the foam shall be alcohol-resistant. Fire-fighting foam shall be stored separately from any area in which flammable ~~and~~ or combustible liquids are stored and in an area or areas that will be readily accessible to fire fighters responding to a fire at the facility.

h. Amend the exception to section 3404.2.9.1.2.1 by adding the following new numbered paragraphs:

6. The premises ~~is~~ are not a refinery.

7. The premises ~~does~~ do not include bulk storage of flammable or combustible liquids.

8. The premises ~~does~~ do not contain total storage capacity to store one million gallons or more of flammable or combustible liquids.

i. No change.

221.3(2) No change.

221.3(3) Plans and plan review fees.

a. The owner of any premises on which flammable or combustible liquids are or will be stored or used is required to submit construction plans to the state fire marshal division, online or by mail as established in rule 661—221.1(101), prior to commencing initial construction of the facility or prior to commencing any construction at an existing facility which includes the addition or replacement of an aboveground flammable or combustible liquid storage tank. The construction plans shall be sealed by a licensed professional engineer if the facility at which the construction will occur is or will be a refinery or if preparation of the plans by a licensed professional engineer is required by another provision of Iowa law.

Construction for which plans are required to be submitted for review shall not commence until approval of the plan has been received from the state fire marshal.

EXCEPTION 1: Submission of construction plans is not required if the total flammable ~~and~~ or combustible liquid storage capacity on the premises is or will be 1,100 gallons or less.

EXCEPTION 2: If an SPCC plan has been prepared pursuant to 40 CFR 112 for a facility other than a refinery, a copy of the SPCC plan may be submitted to the state fire marshal in lieu of submission of separate construction plans, provided that the SPCC plan includes all of the elements required to be included in construction plans for the specific facility in this subrule. If the state fire marshal agrees, copies of portions of the SPCC plan may be submitted in lieu of a copy of the complete plan provided that all elements of construction plans which are required for the specific facility by this subrule are included. If an SPCC plan or portions thereof are submitted to the state fire marshal, the person making the submission shall provide any additional information required by the state fire marshal to evaluate compliance with the provisions of this chapter and Iowa Code chapter 101. The copy of the SPCC plan or portions thereof submitted to the state fire marshal shall clearly identify the licensed professional engineer who prepared the plan or shall be accompanied by a letter making this identification.

b. No change.

c. Fees for plan reviews shall apply as follows:

(1) \$100 plus \$25 for each new or replacement tank included in the plan, for any site or facility at which flammable or combustible liquids are or will be stored, except for new construction of a refinery.

(2) \$500 for review of the initial construction plans of a refinery if the projected construction costs are \$100,000,000 or less and \$1,000 for the initial construction plans for a refinery if the projected construction costs are greater than \$100,000,000.

(3) The owner shall submit payment of plan review fees electronically or in the form of a check, money order, or warrant payable to ~~Treasurer, State of Iowa~~ the State Fire Marshal as established in rule 661—221.1(101). Payment shall not be made in cash.

d. Plan review fees shall be refunded to the submitter if the plan review has not been completed and the submitter has not been notified of approval or disapproval of the plans within 60 days of receipt of the complete plans by the state fire marshal division.

221.3(4) Inspections.

a. Any facility at which flammable or combustible liquids are stored is subject to inspection by any state fire code official during the regular business hours of the facility. If the facility does not operate

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under regular business hours, a state fire code official shall have access to the facility between 8 a.m. and 4 p.m. on any day which is a business day for the state of Iowa, within four hours of notifying the owner of intent to inspect the facility.

b. Any inspection of a facility pursuant to this subrule conducted by an employee of the state fire marshal division of the department of public safety shall result in an inspection fee of \$100 plus \$25 for each aboveground flammable or combustible liquid storage tank, except that there shall be no fee for an initial inspection or the first reinspection after an initial inspection that is conducted pursuant to the receipt of a complaint alleging that the facility is in violation of any provision of this chapter, 661—Chapter 224 or Iowa Code chapter 101. The owner shall submit payment of inspection fees electronically or in the form of a check, money order, or warrant payable to the State Fire Marshal as established in rule 661—221.1(101). Payment shall not be made in cash.

c. Inspections may be initiated by the inspecting official at random or on any other basis; may be conducted at the request of the owner, operator, or manager of a facility; or may be conducted to investigate allegations made in a complaint. Such a complaint shall be in writing and submitted as established in rule 661—221.1(101) and shall specify the location and nature of the alleged violations. The complainant may or may not be identified. Complainants who identify themselves may request to be notified of the outcome of the inspection conducted in response to the complaint.

661—221.4(101) Motor fuel dispensing facilities and repair garages. The International Fire Code, 2006 edition, published by the ICC, Chapter 22 and references contained therein, and NFPA 30A, Code for Motor Fuel Dispensing Facilities and Repair Garages, 2003 edition and references contained therein, are adopted by reference as the rules for motor fuel dispensing facilities and repair garages. If any provision of the International Fire Code adopted herein is in conflict with any provision of NFPA 30A, the International Fire Code provision shall apply. The International Fire Code, 2006 edition, Chapter 22, is adopted with the following amendments:

221.4(1) No change.

221.4(2) Add the following new sections:

2206.7.1.1 Dispensing of blended biofuels.

2206.7.1.1.1 Definitions.

“*B-blend*” means biodiesel blended fuel as defined in Iowa Code section 214A.1 with the blend including between 6 and 20 percent biodiesel, as defined in Iowa Code section 214A.1.

NOTE: For purposes of the rules contained in this chapter and other chapters of rules of the state fire marshal (661—Chapters 200 through 299 inclusive), diesel fuel may contain biodiesel provided that the concentration of biodiesel is less than 6 percent in accordance with rule 21—85.33(214A,208A), which adopts by reference standards for the content of motor fuels established by ASTM International (formerly known as the American Society for Testing and Materials).

“*E-10*” means a blend of petroleum and ethanol including no more than 16 percent ethanol intended for use as a motor vehicle fuel.

“*E-blend*” means a blend of petroleum and ethanol including more than 16 percent ethanol intended for use as a motor vehicle fuel.

“*Existing E-blend dispenser*” means a dispenser installed on or before October 24, 2010, for use in dispensing E-blend.

2206.7.1.1.2 E-blend may be dispensed only if (1) or (2) applies:

(1) ~~The~~ the dispenser is listed by an independent testing laboratory for use with E-blend or E-85.

(2) ~~The dispenser is an existing E-blend dispenser and either (a) or (b) applies:~~

(a) ~~The dispenser is listed by an independent testing laboratory as compatible with E-10 gasoline, and the owner or operator visually inspects the dispenser and the dispenser sump daily for leaks and equipment failure. The owner or operator shall maintain a record of such inspection for at least one year after the inspection. The record shall be located on the premises of the owner or operator and shall be made available to the department of natural resources or the state fire marshal upon request. If a leak is detected, the department of natural resources shall be notified pursuant to Iowa Code section 455B.386.~~

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~~(b) The dispenser's manufacturer has submitted the dispenser to an independent testing laboratory to be listed as compatible for use with E-85 gasoline, and the owner or operator has installed an under-dispenser containment system with electronic monitoring.~~

~~NOTE: Option (2) will not be available after August 25, 2014. On or after August 26, 2014, E-blend will be allowed to be dispensed only from dispensers listed by independent testing laboratories for use with E-blend or E-85.~~

2206.7.1.1.3 B-blend may be dispensed only if (1) and either (2), (3), (4), or (5) apply:

(1) Only a dispenser listed by an independent testing laboratory as compatible with diesel fuel shall be used to dispense B-blend.

(2) The owner or operator shall visually inspect the dispenser and the dispenser sump daily for leaks and equipment failure and maintain a record of such inspection for at least one year after the inspection. The record shall be located on the premises of the owner or operator and shall be made available to the department of natural resources or the state fire marshal upon request. If a leak is detected, the department of natural resources shall be notified pursuant to Iowa Code section 455B.386.

(3) ~~The dispenser's manufacturer has submitted the dispenser to an independent testing laboratory to be listed as compatible for use with B-blend, and the owner or operator has installed an under-dispenser containment system with electronic monitoring.~~

(4) Information published or provided by the manufacturer of the dispenser is available stating that the dispenser is compatible with B-blend.

(5) The owner or operator of the dispenser has in force insurance for environmental liability in a minimum amount of \$500,000, which would cover damage resulting from the operation of the dispenser and the owner or operator is able to produce documentation of the insurance coverage upon request from the state fire marshal or the department of natural resources.

NOTE: If option (2), (4), or (5) is used, under-dispenser containment shall be provided if otherwise required by the rules in this chapter, rules of the department of natural resources, or any other applicable provision of law.

This subrule is intended to implement Iowa Code sections 101.1 and 455G.31.

221.4(3) No change.

221.4(4) Temporary storage in disaster emergencies. Notwithstanding any provision to the contrary found in this chapter or found in the International Fire Code or NFPA 30A as adopted by reference herein, aboveground ~~petroleum~~ flammable or combustible liquid storage tanks may be used to store flammable ~~and~~ or combustible liquids in motor fuel dispensing operations, provided that all of the following apply:

a. The facility is in an area covered by a disaster emergency proclamation issued by the governor pursuant to Iowa Code section 29C.6 or, if not in such an area, the facility has applied to the state fire marshal and has been approved for storage of flammable ~~and~~ or combustible liquids in compliance with this subrule.

b. The facility has suffered damage which has rendered the storage tanks normally used by the facility for flammable ~~and~~ or combustible liquids inoperable. Storage of flammable ~~and~~ or combustible liquids in compliance with this subrule shall continue only for as long as the normal storage tanks are inoperable and in no event for more than 90 days.

EXCEPTION: In extraordinary circumstances, storage of flammable ~~and~~ or combustible liquids in compliance with this subrule may continue for more than 90 days if the facility has sought and received specific written approval from the state fire marshal for such storage.

c. The facility has written confirmation from the facility's insurance provider that insurance coverage will apply while storage of flammable ~~and~~ or combustible liquids in compliance with this subrule is occurring.

d. Any aboveground ~~petroleum~~ flammable or combustible liquid storage tank used pursuant to this subrule shall be rated or listed by an independent testing laboratory for aboveground storage of flammable ~~and~~ or combustible liquids.

e. Any aboveground ~~petroleum~~ flammable or combustible liquid storage tank used pursuant to this subrule shall be of no more than 1,000 gallons capacity.

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~~EXEPTION~~ EXCEPTION: A storage tank larger than 1,000 gallons capacity may be used pursuant to this subrule if the facility has received specific written approval from the state fire marshal for its use. In reviewing such a request, the state fire marshal shall consider, but is not limited to considering, the following factors:

(1) Volume of throughput of the facility.

(2) Ability to meet setback requirements appropriate to the size of the tanks used.

f. to h. No change.

i. Aboveground ~~petroleum~~ flammable or combustible liquid storage tanks used pursuant to this subrule shall be plumbed into existing dispensers, if practical. If this is impractical, all fueling at the facility shall be by attendant only; no self-service dispensing shall be allowed at the facility.

j. Any aboveground ~~petroleum~~ flammable or combustible liquid storage tank used in compliance with this subrule shall be located so as to be protected from prospective damage from vehicle collisions and shall be located with due regard to vehicular traffic patterns and the location of property lines and significant buildings, particularly those which are frequently occupied by humans.

ARC 5299C

PUBLIC SAFETY DEPARTMENT[661]

Notice of Intended Action

Proposing rule making related to aboveground flammable or combustible liquid storage tanks and providing an opportunity for public comment

The State Fire Marshal hereby proposes to amend Chapter 224, "Aboveground Petroleum Storage Tanks," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 101.23.

State or Federal Law Implemented

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

Purpose and Summary

The purposes of the proposed amendments to Chapter 224 are to update the process for registration of tanks and to provide contact information for the program.

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 SAFETY DEPARTMENT[661](cont'd)

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on December 22, 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 224**, title, as follows:
ABOVEGROUND PETROLEUM FLAMMABLE OR COMBUSTIBLE LIQUID STORAGE TANKS

ITEM 2. Amend rules 661—224.1(101) and 661—224.2(101) as follows:

661—224.1(101) Scope. These rules apply to aboveground ~~petroleum~~ flammable or combustible liquid storage tanks, as defined in Iowa Code section 101.21.

224.1(1) The aboveground flammable or combustible liquid storage tanks program is located at the following address:

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

224.1(2) The program may be contacted by electronic mail at sfmast@dps.state.ia.us or by the United States Postal Service.

224.1(3) The website for the aboveground flammable or combustible liquid storage tanks program is: dps.iowa.gov/divisions/state-fire-marshal/licensing/above-ground-storage-tanks.

661—224.2(101) Definition Definitions. The following ~~definition applies~~ definitions apply to the rules in this chapter:

“Aboveground ~~petroleum~~ flammable or combustible liquid storage tank” means one or a combination of tanks, including connecting pipes connected to the tanks which are used to contain an accumulation of ~~petroleum~~ flammable or combustible liquid and the volume of which, including the volume of the underground pipes, is more than 90 percent above the surface of the ground.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

~~Aboveground petroleum storage tank~~ “Aboveground flammable or combustible liquid storage tank” does not include any of the following:

1. Aboveground tanks of 1100 gallons or less capacity.
2. Tanks used for storing heating oil for consumptive use on the premises where stored.
3. Underground storage tanks as defined by Iowa Code section 455B.471.
4. A flow-through process tank, or a tank containing a regulated substance, other than motor fuel used for transportation purposes, for use as part of a manufacturing process, system, or facility.
5. An aboveground tank that stores flammable liquids on a farm located outside the limits of a city if the aboveground tank has 2000 gallons or less capacity.
6. An aboveground tank that stores combustible liquids on a farm located outside the limits of a city if the aboveground tank has 5000 gallons or less.

“Combustible liquid” means any liquid that has a closed-cup flash point greater than or equal to 100 degrees Fahrenheit.

“Commodities” means crops as defined in Iowa Code section 202.1 or animals as defined in Iowa Code section 459.102.

“Farm” means land and associated improvements used to produce agricultural commodities, if at least \$1000 is annually generated from the sale of the agricultural commodities.

“Flammable liquid” means a liquid with a closed-cup flash point below 100 degrees Fahrenheit and a Reid vapor pressure not exceeding 40 psi absolute, 2026.6 mm Hg, at 100 degrees Fahrenheit.

“Liquefied natural gas” means a fuel in the liquid state composed predominantly of methane and which may contain minor quantities of ethane, propane, nitrogen, or other components normally found in natural gas.

“Liquefied petroleum gas” means material composed predominantly of any of the following hydrocarbons, or mixtures of the same: propane, propylene, butanes (normal butane or isobutane), and butylenes.

“Operator” means a person in control of, or having responsibility for, the daily operation of an aboveground flammable or combustible liquid storage tank.

“Owner” means: in the case of an aboveground flammable or combustible liquid storage tank in use on or after July 1, 1989, a person who owns the aboveground flammable or combustible liquid storage tank used for the storage, use, or dispensing of flammable or combustible liquid, or in the case of an aboveground flammable or combustible liquid storage tank in use before July 1, 1989, but no longer in use on or after that date, a person who owned the tank immediately before the discontinuation of its use.

“Petroleum” means petroleum as defined in Iowa Code section 455B.471.

ITEM 3. Amend rules 661—224.4(101) to 661—224.8(101) as follows:

661—224.4(101) Registration of existing and new tanks—fees. All existing, new, replacement and out-of-service aboveground tanks of 1101-gallon capacity or greater shall be registered with the state fire marshal. This requirement applies to aboveground tanks used to store ~~petroleum~~ flammable or combustible liquids, as defined in Iowa Code section 455B.471, which ~~includes~~ include, but are not limited to, crude oil, heating oil offered for resale, motor fuels and oils such as gasoline, diesel fuels and motor oil. Tanks which are used, or planned for use, to store blended fuels which include either gasoline or diesel are subject to this requirement.

224.4(1) Registration form. Registration forms for aboveground storage tanks may be obtained from the state fire marshal division. A completed registration form shall be submitted to the state fire marshal division, online or by mail as established in rule 661—224.1(101), by the date on which it is due and shall be accompanied by the applicable fee, including any applicable late charges.

224.4(2) Fees. The annual registration fee for each tank shall be ~~\$10~~ \$20. The fee shall cover registration for each tank for one year, which ends on October 1. If a tank is registered on or after October 1 of any year, payment of the fee shall cover registration until the following October 1.

224.4(3) Registration deadline. Each tank shall be registered annually by October 1 of each year.

EXCEPTION: A tank may be registered for the first time on any date without penalty, provided that it has not previously been in use to store ~~petroleum products~~ flammable or combustible liquids. A tank that

PUBLIC SAFETY DEPARTMENT[661](cont'd)

is registered for the first time shall not be used to store ~~petroleum products~~ flammable or combustible liquid until the registration has been completed and the registration tag has been attached to the tank.

224.4(4) No change.

224.4(5) Payment. The registration fee, and any late fee if applicable, shall be submitted electronically or by draft, check, or money order in the applicable amount payable to the Iowa State Fire Marshal Division. Draft, check, or money order shall be addressed to the state fire marshal as established in subrule 224.1(1). Payment shall not be made in cash.

661—224.5(101) Approval of plans. A registration tag for a new aboveground storage tank shall not be issued prior to approval by the state fire marshal of plans for the installation of the tank and payment of the required plan review and registration fee. The state fire marshal may require inspection of the tank and payment of an inspection fee prior to use of the tank.

661—224.6(101) Inspections and orders.

224.6(1) and **224.6(2)** No change.

224.6(3) Suspension of use. If any corrective action ordered pursuant to subrule 224.6(2) is not completed in the time specified in the order issued pursuant to subrule 224.6(2), the state fire marshal may order that the tank be placed out of service until the corrective action or actions have been completed. If a tank is ordered to be placed out of service pursuant to this subrule, the tank shall have a sticker prominently affixed to it which states that the tank is out of service by order of the state fire marshal and that it is a violation of law to transfer any ~~petroleum product~~ flammable or combustible liquid into the tank.

224.6(4) Emergency order. If the state fire marshal finds that a violation identified during an inspection conducted pursuant to subrule 224.6(1) creates an imminent threat to public safety or public health, or if the state fire marshal finds, after consultation with the department of natural resources, that such a violation creates an imminent threat of environmental damage, the state fire marshal shall order that the tank be placed out of service immediately and may order that the tank be evacuated of liquid and purged of vapors. If a tank is ordered to be placed out of service pursuant to this subrule, the tank shall have a sticker prominently affixed to it which states that the tank is out of service by order of the state fire marshal and that it is a violation of law to transfer any ~~petroleum product~~ flammable or combustible liquid into the tank.

224.6(5) Notice. Notice of any order issued pursuant to this rule shall be given to the owner or operator of a tank subject to the order. Notice of an emergency order issued pursuant to subrule 224.6(4) shall be given by personal service. Notice of any other order issued pursuant to this rule may be given by regular mail, electronic mail, or personal service.

EXCEPTION: If the owner of a tank subject to an order issued pursuant to this rule is unknown or cannot be located, notice shall be considered to have been given if the notice is served personally to any person at the location of the tank or, if no person is present, by affixing the notice to the tank. Alternatively, notice may be given by mailing the notice to the address at which the tank is located, with a return receipt requested. Notification from the United States Postal Service that delivery was attempted unsuccessfully or that delivery was refused shall serve as proof that notice was given.

661—224.7(101) Leaks, spills, or damage. Any leak from, spill from, or damage to a storage tank shall be reported to the local fire department and, if required by law, to the department of natural resources. If a tank is leaking or has been damaged, it shall be placed out of service until the leak has been repaired. A sign shall be placed prominently on the tank stating that the tank is out of service and that no ~~petroleum product~~ flammable or combustible liquid shall be placed into the tank until required repairs have been completed.

661—224.8(101) Civil penalty. The state fire marshal may impose a civil penalty upon the owner of a storage tank for any of the following:

PUBLIC SAFETY DEPARTMENT[661](cont'd)

1. Failure to register a storage tank currently being used to store a ~~petroleum product~~ flammable or combustible liquid if the registration is more than 30 days late.

2. Allowing any ~~petroleum product~~ flammable or combustible liquid to be placed into a tank which has been ordered to be placed out of service and for which the order has not been rescinded or allowing any ~~petroleum product~~ flammable or combustible liquid to be placed into any tank which has been damaged or is leaking, if the damage or leak has not been repaired.

A civil penalty issued pursuant to this rule and to Iowa Code section 101.26 shall not exceed \$100 for each day during which the violation occurs or \$1000 in total.

REVENUE DEPARTMENT

Notice of Electric and Natural Gas Delivery Tax Rates and Municipal Electric and Natural Gas Transfer Replacement Tax Rates for Each Competitive Service Area

Pursuant to the authority of Iowa Code sections 437A.4 and 437A.5, the Director of Revenue hereby gives notice of the electric delivery tax rate, the municipal electric transfer replacement tax rate, the natural gas delivery tax rate, and the municipal natural gas transfer replacement tax rate for each competitive service area in the state. These rates will be used in conjunction with the number of kilowatt hours of electricity and the number of therms of natural gas delivered to consumers in calendar year 2020 by each taxpayer to determine the tax due for each taxpayer in the 2021-2022 fiscal year.

2020 ELECTRIC DELIVERY TAX RATES BY SERVICE AREA

CO. #	MUNICIPAL ELECTRICS	DELIVERY TAX RATE
3226	Akron Municipal Utilities	0.00005016
3201	Algona Municipal Utilities	0.00025144
3205	Alta Municipal Power Plant	0.00008290
3069	Alta Vista Municipal Utilities	0.00000000
3070	Alton Municipal Light & Power	0.00000000
3207	Ames Municipal Electric System	0.00000094
3071	Anita Municipal Utilities	0.00000000
3227	Anthon Municipal Electric Utility	0.00010389
3209	Atlantic Municipal Utilities	0.00015040
3073	Auburn Municipal Utility	0.00000000
3074	Aurelia Mun. Electric Utility	0.00007365
3211	Bancroft Municipal Utilities	0.00087760
3213	Bellevue Municipal Utilities	0.00008788
3228	Bigelow Municipal Electric Utility	0.00219770
3229	Bloomfield Municipal Electric Utility	0.00003607
3075	Breda Mun. Electric System	0.00000000
3076	Brooklyn Municipal Utilities	0.00132929
3216	Buffalo Municipal Electric System	0.00000203
3217	Burt Municipal Electric Utility	0.00000199
3077	Callender Electric	0.00000000
3078	Carlisle Municipal Utilities	0.00000000
3079	Cascade Municipal Utilities	0.00139918
3221	Cedar Falls Municipal Elec. Utility	0.00030357
3068	City of Afton	0.00000000

REVENUE DEPARTMENT(cont'd)

CO. #	MUNICIPAL ELECTRICS	DELIVERY TAX RATE
3072	City of Aplington	0.00000000
3082	City of Dike	0.00000000
3088	City of Estherville	0.00000000
3089	City of Fairbank	0.00000000
3090	City of Farnhamville	0.00000000
3230	City of Fredericksburg	0.00000452
3106	City of Larchwood	0.00000000
3107	City of Lawler	0.00000000
3108	City of Lehigh	0.00000000
3113	City of Marathon	0.00000000
3311	City of Pella	0.00007414
3125	City of Renwick	0.00000000
3129	City of Sergeant Bluff	0.00000000
3139	City of Westfield	0.00000000
3143	City of Woolstock	0.00000000
3236	Coggon Municipal Light Plant	0.00004320
3237	Coon Rapids Municipal Utilities	0.00052157
3242	Corning Municipal Utilities	0.00031761
3080	Corwith Municipal Utilities	0.00000000
3243	Danville Municipal Electric Utility	0.00000384
3081	Dayton Light & Power	0.00000000
3244	Denison Municipal Utilities	0.00001027
3245	Denver Municipal Electric Utility	0.00005928
3083	Durant Municipal Electric Plant	0.00000000
3084	Dysart Municipal Utilities	0.00000000
3085	Earlville Municipal Utilities	0.00137177
3087	Ellsworth Municipal Utilities	0.00000000
3091	Fonda Municipal Electric	0.00000000
3252	Fontanelle Municipal Utilities	0.00033407
3092	Forest City Municipal Utilities	0.00000000
3231	Glidden Municipal Electric Utility	0.00000214
3093	Gowrie Municipal Utilities	0.00148389
3256	Graettinger Municipal Light Plant	0.00028010
3094	Grafton Municipal Utilities	0.00000000
3258	Grand Junction Municipal Utilities	0.00000538
3095	Greenfield Municipal Utilities	0.00110806
3096	Grundy Center Light & Power	0.00022173
3232	Guttenberg Municipal Electric	0.00002873
3263	Harlan Municipal Utilities	0.00137185
3097	Hartley Municipal Utilities	0.00000000
3098	Hawarden Municipal Utility	0.00000000
3099	Hinton Municipal Electric/Water	0.00006822
3267	Hopkinton Municipal Utilities	0.00000824
3100	Hudson Municipal Utilities	0.00000000

REVENUE DEPARTMENT(cont'd)

CO. #	MUNICIPAL ELECTRICS	DELIVERY TAX RATE
3101	Independence Light & Power	0.00000000
3271	Indianola Municipal Utilities	0.00000742
3102	Keosauqua Light & Power	0.00000000
3103	Kimballton Municipal Utilities	0.00000000
3104	Lake Mills Municipal Utilities	0.00000000
3105	Lake Park Municipal Utilities	0.00000000
3233	Lake View Municipal Utilities	0.00015764
3274	Lamoni Municipal Utilities	0.00135315
3276	LaPorte City Utilities	0.00000998
3277	Laurens Municipal Utilities	0.00029015
3109	Lenox Mun. Light & Power	0.00043024
3110	Livermore Municipal Utilities	0.00000000
3111	Long Grove Mun. Elec./Water	0.00000000
3282	Manilla Municipal Elec. Utilities	0.00011092
3112	Manning Municipal Electric	0.00025521
3284	Mapleton Municipal Utilities	0.00008732
3285	Maquoketa Municipal Electric	0.00004721
3288	McGregor Municipal Utilities	0.00000695
3291	Milford Municipal Utilities	0.00018034
3114	Montezuma Municipal Light & Power	0.00000000
3115	Mount Pleasant Municipal Utilities	0.00000000
3293	Muscatine Municipal Utilities	0.00009555
3116	Neola Light & Water System	0.00000000
3297	New Hampton Municipal Light Plant	0.00009487
3298	New London Municipal Utility	0.00052973
3304	Ogden Municipal Utilities	0.00006019
3234	Onawa Municipal Utilities	0.00009815
3117	Orange City Municipal Utilities	0.00000000
3118	Orient Municipal Utilities	0.00000000
3307	Osage Municipal Utilities	0.00004946
3309	Panora Municipal Electric Utility	0.00006921
3119	Paton Municipal Utilities	0.00000000
3120	Paullina Municipal Utilities	0.00000000
3121	Pocahontas Municipal Utilities	0.00000000
3122	Preston Municipal Utilities	0.00000000
3315	Primghar Municipal Light Plant	0.00001643
3123	Readlyn Municipal Utilities	0.00000000
3124	Remsen Municipal Utilities	0.00000000
3318	Rock Rapids Municipal Utilities	0.00000479
3126	Rockford Municipal Light Plant	0.00000000
3127	Sabula Municipal Utilities	0.00000000
3128	Sanborn Municipal Light Plant	0.00000000
3130	Shelby Municipal Utilities	0.00000000
3131	Sibley Municipal Utilities	0.00000000

REVENUE DEPARTMENT(cont'd)

CO. #	MUNICIPAL ELECTRICS	DELIVERY TAX RATE
3321	Sioux Center Municipal Utilities	0.00000087
3323	Southern Minnesota Mun. Power	0.00000000
3324	Spencer Municipal Utilities	0.00012945
3132	Stanhope Municipal Utilities	0.00000000
3360	Stanton Municipal Utilities	0.00000000
3326	State Center Municipal Light Plant	0.00027766
3327	Story City Municipal Electric Utility	0.00010916
3134	Stratford Municipal Utilities	0.00000000
3135	Strawberry Point Electric Utility	0.00000000
3136	Stuart Municipal Utilities	0.00121418
3328	Sumner Municipal Light Plant	0.00020357
3330	Tipton Municipal Utilities	0.00143611
3332	Traer Municipal Utilities	0.00057746
3337	Villisca Municipal Power Plant	0.00022186
3137	Vinton Municipal Utilities	0.00000000
3138	Wall Lake Municipal Utilities	0.00000000
3338	Waverly Light & Power	0.00072786
3342	Webster City Municipal Utilities	0.00042187
3345	West Bend Municipal Power Plant	0.00082391
3346	West Liberty Municipal Electric Util.	0.00000641
3347	West Point Municipal Utility System	0.00012115
3140	Whittemore Municipal Utilities	0.00000000
3141	Wilton Municipal Light & Power	0.00000000
3351	Winterset Municipal Utilities	0.00133211
3142	Woodbine Municipal Utilities	0.00000000

CO. #	IOU's — ELECTRIC	DELIVERY TAX RATE
7206	Amana Society Service Co.	0.00053715
7248	Eldridge Electric & Water Utilities	0.00054889
7354	Geneseo Municipal Utilities	0.00000000
7270	IES Utilities	0.00237888
7272	Interstate Power	0.00103630
7289	MidAmerican Energy	0.00259183
7296	Nebraska Public Power District	0.00000000
7302	Northwestern Corporation	0.00000000
7305	Omaha Public Power District	0.00123835
7334	Union Electric	0.00000000

REVENUE DEPARTMENT(cont'd)

CO. #	REC's	DELIVERY TAX RATE
4319	Access Energy Coop	0.00044303
4203	Allamakee Clayton Electric Coop	0.00093586
4208	Atchison-Holt Electric Coop	0.00085628
4214	Boone Valley Electric Coop	0.00085075
4218	Butler County REC	0.00068865
4219	Calhoun County Electric Coop	0.00109234
4220	Cass Electric Coop	0.00004589
4224	Central Iowa Power Coop	0.00000000
4225	Chariton Valley Electric Coop	0.00102029
4235	Clarke Electric Coop	0.00234795
4287	Consumers Energy	0.00112439
4240	Corn Belt Power Coop	0.00000000
4246	East-Central Iowa REC	0.00193233
4247	Eastern Iowa Light & Power	0.00068026
4250	Farmers Electric Coop - Greenfield	0.00280330
4249	Farmers Electric Coop - Kalona	0.00047680
4251	Federated Rural Electric	0.00030922
4253	Franklin Rural Electric Coop	0.00081291
4254	Freeborn-Mower Cooperative	0.00149222
4255	Glidden Rural Electric Coop	0.00055807
4259	Grundy County REC	0.00086784
4260	Grundy Electric Cooperative	0.00052083
4261	Guthrie County REC	0.00121604
4262	Hancock Co. REC	0.00097751
4265	Harrison County REC	0.00064623
4266	Hawkeye REC	0.00051726
4223	Heartland Power Coop	0.00033885
4268	Humboldt County REC	0.00096090
4273	Iowa Lakes Electric Coop	0.00061700
4279	Linn County REC	0.00133993
4280	Lyon Rural Electric Coop	0.00051847
4286	Maquoketa Valley Electric Coop	0.00221262
4290	Midland Power Cooperative	0.00110248
4299	Nishnabotna Valley REC	0.00059726
4300	North West Rural Electric Coop	0.00034671
4301	Northwest Iowa Power Coop	0.00000000
4308	Osceola Electric Coop	0.00029411
4310	Pella Cooperative Electric	0.00182080
4313	Pleasant Hill Community Line	0.00023517
4316	Rideta Electric Coop	0.00263826
4320	Sac County Rural Electric Coop	0.00064621
4322	Southern Iowa Electric Coop	0.00134566
4379	Southwest Iowa Service Coop	0.00284449

REVENUE DEPARTMENT(cont'd)

CO. #	REC's	DELIVERY TAX RATE
4329	T.I.P. Rural Electric Coop	0.00203782
4333	Tri-County Electric Coop	0.00090603
4336	United Electric Coop	0.00112324
4348	Western Iowa Power Coop	0.00108160
4352	Woodbury County REC	0.00104762
4353	Wright County REC	0.00042550

2020 NATURAL GAS DELIVERY TAX RATES BY SERVICE AREA

CO. #	MUNICIPAL GAS	DELIVERY TAX RATE
5021	Bedford Municipal Gas	0.00000000
5215	Brighton Gas	0.00699385
5023	Brooklyn Municipal Gas	0.00000000
5024	Cascade Municipal Gas	0.00000000
5025	Cedar Falls Municipal Gas	0.00000000
5022	City of Bloomfield	0.00000000
5026	City of Clearfield	0.00000000
5028	City of Everly	0.00000000
5029	City of Fairbank	0.00000000
5238	Coon Rapids Municipal Gas	0.00004064
5241	Corning Municipal Gas	0.00000582
5027	Emmetsburg Municipal Gas	0.00000000
5030	Gilmore City Municipal Gas	0.00000000
5031	Graettinger Municipal Gas	0.00000000
5032	Guthrie Center Municipal Gas	0.00000000
5033	Harlan Municipal Gas	0.00000000
5034	Hartley Municipal Gas	0.00000000
5035	Hawarden Municipal Gas	0.00000000
5036	Lake Park Municipal Gas	0.00000000
5275	Lamoni Municipal Gas	0.00082594
5037	Lenox Municipal Gas	0.00000000
5038	Lineville City Natural Gas	0.00000000
5039	Lorimor Municipal Gas	0.00000000
5281	Manilla Municipal Gas	0.00033542
5283	Manning Municipal Gas	0.00010895
5040	Montezuma Natural Gas	0.00000000
5041	Morning Sun Municipal Gas	0.00000000
5042	Moulton Municipal Gas	0.00000000
5306	Osage Municipal Gas	0.00002994
5043	Prescott Municipal Gas	0.00000000
5044	Preston Municipal Gas	0.00000000
5055	Remsen Municipal Gas	0.00000000

REVENUE DEPARTMENT(cont'd)

CO. #	MUNICIPAL GAS	DELIVERY TAX RATE
5317	Rock Rapids Municipal Gas	0.00011148
5056	Rolfe Municipal Gas	0.00000000
5057	Sabula Municipal Gas	0.00000000
5058	Sac City Municipal Gas	0.00000000
5059	Sanborn Municipal Gas	0.00000000
5060	Sioux Center Municipal Gas	0.00000000
5061	Tipton Municipal Gas	0.00000000
5063	Waukee Municipal Gas	0.00000000
5340	Wayland Municipal Gas	0.00021523
5064	Wellman Municipal Gas	0.00000000
5344	West Bend Municipal Gas	0.00002240
5065	Whittemore Municipal Gas	0.00000000
5349	Winfield Municipal Gas	0.00062928
5066	Woodbine Gas	0.00000000

CO. #	IOU's — GAS	DELIVERY TAX RATE
5204	Allerton Gas	0.02459997
5270	IES Utilities-Gas	0.00677129
5272	Interstate Power-Gas	0.00250175
5289	MidAmerican Energy-Gas	0.00606841
5312	Peoples Natural Gas	0.00640722
5335	United Cities Gas	0.00825340

2020 MUNICIPAL ELECTRIC TRANSFER REPLACEMENT TAX RATES

CO. #	COMPANY	REPLACEMENT TAX RATE
3226	Akron Municipal Utilities	0.01450966
3201	Algona Municipal Utilities	0.00352735
3205	Alta Municipal Power Plant	0.00274283
3069	Alta Vista Municipal Utilities	*
3070	Alton Municipal Light & Power	0.00206064
3207	Ames Municipal Electric System	*
3071	Anita Municipal Utilities	0.00481852
3227	Anthon Municipal Electric Utility	0.00000000
3209	Atlantic Municipal Utilities	0.00235483
3073	Auburn Municipal Utility	0.00710500
3074	Aurelia Municipal Electric Utility	0.00121738
3211	Bancroft Municipal Utilities	*
3213	Bellevue Municipal Utilities	0.02119981
3228	Bigelow Municipal Utilities	*

REVENUE DEPARTMENT(cont'd)

CO. #	COMPANY	REPLACEMENT TAX RATE
3229	Bloomfield Municipal Electric Utility	*
3075	Breda Municipal Electric System	0.00697133
3076	Brooklyn Municipal Utilities	*
3216	Buffalo Municipal Electric System	*
3217	Burt Municipal Electric Utility	*
3077	Callender Electric	0.00853010
3078	Carlisle Municipal Utilities	*
3079	Cascade Municipal Utilities	0.00000000
3221	Cedar Falls Mun. Electric Utility	0.00655389
3068	City of Afton	0.00274376
3072	City of Aplington	0.00582260
3082	City of Dike	0.00000000
3088	City of Estherville	0.02072275
3089	City of Fairbank	*
3090	City of Farnhamville	*
3230	City of Fredericksburg	*
3106	City of Larchwood	*
3107	City of Lawler	0.00000000
3108	City of Lehigh	*
3113	City of Marathon	*
3311	City of Pella	0.00387780
3125	City of Renwick	0.00000000
3129	City of Sergeant Bluff	0.00000000
3139	City of Westfield	0.00000000
3143	City of Woolstock	*
3236	Coggon Municipal Light Plant	0.00000000
3237	Coon Rapids Municipal Utilities	*
3242	Corning Municipal Utilities	0.00000000
3080	Corwith Municipal Utilities	0.00000000
3243	Danville Municipal Electric Utility	*
3081	Dayton Light & Power	0.00177383
3244	Denison Municipal Utilities	*
3245	Denver Municipal Electric Utility	*
3083	Durant Municipal Electric Plant	0.00000000
3084	Dysart Municipal Utilities	0.02555811
3085	Earlville Municipal Utilities	*
3086	Eldridge Electric & Water Utility	0.00000000
3087	Ellsworth Municipal Utilities	0.00379448
3091	Fonda Municipal Electric	*
3252	Fontanelle Municipal Utilities	*
3092	Forest City Municipal Utilities	*
3231	Glidden Municipal Electric Utility	0.00721211
3093	Gowrie Municipal Utilities	0.00537726
3256	Graettinger Municipal Light Plant	0.00232270

REVENUE DEPARTMENT(cont'd)

CO. #	COMPANY	REPLACEMENT TAX RATE
3094	Grafton Municipal Utilities	0.01205869
3258	Grand Junction Municipal Utilities	0.00219385
3095	Greenfield Municipal Utilities	*
3096	Grundy Center Light & Power	0.00123517
3232	Guttenberg Municipal Electric	0.01074277
3263	Harlan Municipal Utilities	0.00343973
3097	Hartley Municipal Utilities	*
3098	Hawarden Municipal Utility	*
3099	Hinton Municipal Electric/Water	0.00104712
3267	Hopkinton Municipal Utilities	*
3100	Hudson Municipal Utilities	*
3101	Independence Light & Power	*
3271	Indianola Municipal Utilities	0.00567964
3102	Keosauqua Light & Power	0.00000000
3103	Kimballton Municipal Utilities	*
3104	Lake Mills Municipal Utilities	0.00877064
3105	Lake Park Municipal Utilities	0.00416319
3233	Lake View Municipal Utilities	0.00864597
3274	Lamoni Municipal Utilities	0.00288265
3276	LaPorte City Utilities	0.00234646
3277	Laurens Municipal Utilities	0.00344287
3109	Lenox Municipal Light & Power	*
3110	Livermore Municipal Utilities	0.01014042
3111	Long Grove Mun. Elec./Water	0.00000000
3282	Manilla Municipal Elec. Utilities	*
3112	Manning Municipal Electric	*
3284	Mapleton Municipal Utilities	0.00639698
3285	Maquoketa Municipal Electric	0.00240224
3288	McGregor Municipal Utilities	0.00207928
3291	Milford Municipal Utilities	0.00018030
3114	Montezuma Municipal Light & Power	0.00203852
3115	Mount Pleasant Municipal Utilities	0.00140715
3293	Muscatine Municipal Utilities	0.00000000
3116	Neola Light & Water System	0.00000000
3297	New Hampton Municipal Light Plant	0.00311058
3298	New London Municipal Utility	0.00500267
3304	Ogden Municipal Utilities	0.00286807
3234	Onawa Municipal Utilities	0.00483055
3117	Orange City Municipal Utilities	*
3118	Orient Municipal Utilities	*
3307	Osage Municipal Utilities	0.00275105
3309	Panora Municipal Electric Utility	*
3119	Paton Municipal Utilities	0.00000000
3120	Paullina Municipal Utilities	0.01206715

REVENUE DEPARTMENT(cont'd)

CO. #	COMPANY	REPLACEMENT TAX RATE
3121	Pocahontas Municipal Utilities	0.00557243
3122	Preston Municipal Utilities	0.00000000
3315	Pringhar Municipal Light Plant	0.00000000
3123	Readlyn Municipal Utilities	0.00000000
3124	Remsen Municipal Utilities	*
3318	Rock Rapids Municipal Utilities	0.00365861
3126	Rockford Municipal Light Plant	0.00000000
3127	Sabula Municipal Utilities	0.03571996
3128	Sanborn Municipal Light Plant	*
3130	Shelby Municipal Utilities	0.00000000
3131	Sibley Municipal Utilities	0.02376746
3321	Sioux Center Municipal Utilities	0.00406996
3324	Spencer Municipal Utilities	0.00397220
3132	Stanhope Municipal Utilities	0.01087072
3360	Stanton Municipal Utilities	0.00396501
3326	State Center Municipal Light Plant	0.00706274
3327	Story City Municipal Electric Utility	*
3134	Stratford Municipal Utilities	0.02957451
3135	Strawberry Point Electric Utility	*
3136	Stuart Municipal Utilities	0.00511613
3328	Sumner Municipal Light Plant	0.00350022
3330	Tipton Municipal Utilities	0.02977356
3332	Traer Municipal Utilities	0.00758234
3337	Villisca Municipal Power Plant	*
3137	Vinton Municipal Utilities	0.00232966
3138	Wall Lake Municipal Utilities	*
3338	Waverly Light & Power	0.00572614
3342	Webster City Municipal Utilities	*
3345	West Bend Municipal Power Plant	0.00198311
3346	West Liberty Municipal Electric Util.	*
3347	West Point Municipal Utility System	0.00469417
3140	Whittemore Municipal Utilities	*
3141	Wilton Municipal Light & Power	0.00000000
3351	Winterset Municipal Utilities	*
3142	Woodbine Municipal Utilities	0.00351749
3143	Woolstock Municipal Utilities	*

*No rate provided to the Department by the Municipal

REVENUE DEPARTMENT(cont'd)

2020 MUNICIPAL NATURAL GAS TRANSFER REPLACEMENT TAX RATES

CO. #	COMPANY	REPLACEMENT TAX RATE
5401	Alton Municipal Gas	0.00000000
5021	Bedford Municipal Gas	0.46219371
5215	Brighton Gas	0.00000000
5023	Brooklyn Municipal Gas	*
5024	Cascade Municipal Gas	0.00000000
5025	Cedar Falls Municipal Gas	0.01089867
5022	City of Bloomfield	*
5026	City of Clearfield	*
5028	City of Everly	*
5029	City of Fairbank	*
5238	Coon Rapids Municipal Gas	*
5241	Corning Municipal Gas	0.00000000
5027	Emmetsburg Municipal Gas	*
5030	Gilmore City Municipal Gas	*
5031	Graettinger Municipal Gas	0.04216470
5032	Guthrie Center Municipal Gas	0.00000000
5033	Harlan Municipal Gas	1.01234600
5034	Hartley Municipal Gas	*
5035	Hawarden Municipal Gas	*
5036	Lake Park Municipal Gas	0.00727347
5275	Lamoni Municipal Gas	0.02173394
5037	Lenox Municipal Gas	*
5038	Lineville City Natural Gas	*
5039	Lorimor Municipal Gas	*
5281	Manilla Municipal Gas	*
5283	Manning Municipal Gas	0.03023575
5402	Mapleton Municipal Gas	0.00000000
5040	Montezuma Natural Gas	*
5041	Morning Sun Municipal Gas	0.00000000
5042	Moulton Municipal Gas	0.00000000
5369	Orange City Municipal Gas	*
5306	Osage Municipal Gas	0.00698990
5043	Prescott Municipal Gas	*
5044	Preston Municipal Gas	0.00000000
5055	Remsen Municipal Gas	*
5317	Rock Rapids Municipal Gas	0.01476138
5056	Rolfe Municipal Gas	*
5057	Sabula Municipal Gas	0.03621585
5058	Sac City Municipal Gas	*
5059	Sanborn Municipal Gas	*
5060	Sioux Center Municipal Gas	0.001105485
5061	Tipton Municipal Gas	*

REVENUE DEPARTMENT(cont'd)

CO. #	COMPANY	REPLACEMENT TAX RATE
5067	Wall Lake Municipal Gas	*
5063	Waukee Municipal Gas	*
5340	Wayland Municipal Gas	0.03577332
5064	Wellman Municipal Gas	0.09479626
5344	West Bend Municipal Gas	0.03820362
5065	Whittemore Municipal Gas	*
5349	Winfield Municipal Gas	0.00000000
5066	Woodbine Gas	*

*No rate provided to the Department by the Municipal

Notice of Rate-Regulated Water Utilities Delivery Tax Rate

Pursuant to the authority of Iowa Code section 437B.3, the Director of Revenue hereby gives notice of the rate-regulated water utility delivery tax rate. This rate will be used in conjunction with the total gallons of water delivered to consumers in calendar year 2020 by each taxpayer, for replacement taxes payable in the 2021-2022 fiscal year.

2020 RATE-REGULATED WATER UTILITIES DELIVERY TAX RATE BY SERVICE AREA

CO. #	RATE-REGULATED WATER	DELIVERY TAX RATE
6020	Iowa American Water	0.00057387

ARC 5294C

REVENUE DEPARTMENT[701]

Notice of Intended Action

Proposing rule making related to electronic and paper filings and providing an opportunity for public comment

The Revenue Department hereby proposes to amend Chapter 7, "Practice and Procedure Before the Department of Revenue," and Chapter 8, "Forms and Communications," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 17A.3, 421.14, 422.13, 422.14, 422.16, 422.36, 423.31, 450.53, 452A.60 and 453A.14.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 17A.3, 421.14, 422.13, 422.14, 422.16, 422.36, 423.31, 450.53, 452A.60 and 453A.14.

Purpose and Summary

The purpose of this proposed rule making is to move selected language related to electronic return filings in general from Chapter 7 to Chapter 8. Chapter 8 is a more appropriate location for this information. The amendment to rule 701—8.2(17A,421) expands options for signatures on paper filings to include copies and facsimiles of signatures.

REVENUE DEPARTMENT[701](cont'd)

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the 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 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 22, 2020. Comments should be directed to:

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

Public Hearing

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

Review by Administrative Rules Review Committee

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

Emergency Rule Making Adopted by Reference

This proposed rule making is also published herein as an Adopted and Filed Emergency rule making (see **ARC 5291C**, IAB 12/2/20). The purpose of this Notice of Intended Action is to solicit public comment on that emergency rule making, whose subject matter is hereby adopted by reference.

ARC 5290C**TRANSPORTATION DEPARTMENT[761]****Notice of Intended Action****Proposing rule making related to signs
and providing an opportunity for public comment**

The Department of Transportation hereby proposes to amend Chapter 131, “Signing on Primary Highways,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 307.12 and 314.31.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 314.31 and 321.252.

Purpose and Summary

This proposed rule making updates Chapter 131 to comply with 2020 Iowa Acts, Senate File 388, sections 1 and 2; corrects the name of the Traffic and Safety Bureau; and makes editorial changes to the introductory paragraphs of several rules for consistency within the chapter.

2020 Iowa Acts, Senate File 388, adds section 314.31 to the Iowa Code. This section requires the Department to adopt rules to define the procedures and requirements for private entities to purchase and pay for the installation of signs designating the Iowa Medal of Honor Highway. This highway is defined as the segment of United States Highway 20, as designated as of June 17, 2020, which crosses Iowa from Sioux City to Dubuque.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. The number of signs that will be installed on the Iowa Medal of Honor Highway is limited, and the cost and installation of the signs will be paid for by private entities.

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on December 22, 2020. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Strategic Communications and Policy Bureau
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

TRANSPORTATION DEPARTMENT[761](cont'd)

Public Hearing

If requested, a public hearing to hear oral presentations will be held on December 28, 2020, via conference call from 9 to 10 a.m. Persons who wish to participate in the conference call should contact Tracy George before 4:30 p.m. on December 22, 2020, to facilitate an orderly hearing. A conference call number will be provided to participants prior to the hearing.

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

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

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Strike "office of traffic safety" wherever it appears in rules **761—131.1(321)** to **761—131.3(321)** and **761—131.6(321)** to **761—131.8(321)** and insert "traffic and safety bureau" in lieu thereof.

ITEM 2. Amend rule 761—131.2(321), introductory paragraph, as follows:

761—131.2(321) Erection of signs for numbered business routes. ~~The purpose of this~~ This rule is to establish ~~establishes~~ signing requirements, responsibilities and procedures for the erection of signs for numbered business routes.

ITEM 3. Amend rule 761—131.3(321), introductory paragraph, as follows:

761—131.3(321) Erection of signs for schools. ~~The purpose of this~~ This rule is to establish ~~establishes~~ requirements and procedures for the erection of signs for schools.

ITEM 4. Amend rule 761—131.4(321), introductory paragraph, as follows:

761—131.4(321) Erection of camping service signs on interstate highways. ~~The purpose of this~~ This rule is to establish ~~establishes~~ requirements and procedures for the erection of camping service signs.

ITEM 5. Amend rule 761—131.5(321), introductory paragraph, as follows:

761—131.5(321) Erection of signs for sanitary landfills. ~~The purpose of this~~ This rule is to establish ~~establishes~~ requirements and procedures for the erection of signs for sanitary landfills.

ITEM 6. Amend rule 761—131.6(321), introductory paragraph, as follows:

761—131.6(321) Erection of signs for special events. ~~The purpose of this~~ This rule is to establish ~~establishes~~ requirements, procedures and responsibilities for the erection of signs for special events.

ITEM 7. Amend rule 761—131.7(321), introductory paragraph, as follows:

761—131.7(321) Erection of signs for organized off-highway camps. ~~The purpose of this~~ This rule is to establish ~~establishes~~ requirements, procedures and responsibilities for the erection of signs for organized off-highway camps.

TRANSPORTATION DEPARTMENT[761](cont'd)

ITEM 8. Amend rule 761—131.8(321), introductory paragraph, as follows:

761—131.8(321) Erection of signs for county conservation parks. ~~The purpose of this~~ This rule is to establish ~~establishes~~ requirements, procedures and responsibilities for the erection of signs for county conservation parks.

ITEM 9. Amend rule 761—131.9(321), introductory paragraph, as follows:

761—131.9(321) Erection of no parking signs. ~~The purpose of this~~ This rule is to establish ~~establishes~~ procedures and conditions for the erection of no parking signs on rural primary highways.

ITEM 10. Adopt the following new rule 761—131.11(314):

761—131.11(314) Signing for Iowa medal of honor highway. This rule establishes the procedures and requirements for private entities to purchase and pay for the installation of signs designating the Iowa medal of honor highway.

131.11(1) Definition. “*Iowa medal of honor highway*” means the segment of the highway known as United States Highway 20, as designated as of June 17, 2020, which crosses this state from Sioux City to Dubuque.

131.11(2) Requirements.

a. The number of signs within the highway right-of-way shall be limited to one sign at each end of the Iowa medal of honor highway for traffic entering the state and one sign at each entry point of the corporate limits of each city through which the Iowa medal of honor highway passes.

b. Each sign shall match the design approved and provided by the department, and the sign materials shall comply with departmental standard specifications as they exist at the time of fabrication. The departmental standard specifications can be found through the department’s electronic reference library available on the department’s website at www.iowadot.gov.

c. Once signs are installed at one of the approved locations, no additional requests will be accepted for that location. When signs have been installed at all locations identified in paragraph 131.11(2)“*a.*,” no further requests will be accepted.

d. The applicant may purchase a sign from the department’s sign shop or any other private sign shop. If an applicant chooses to obtain a sign from a private sign shop, the department will furnish the sign design and approve the construction prior to purchase. The department will also inspect the sign as stated in subrule 131.11(5).

e. Signs designating the Iowa medal of honor highway shall be furnished and paid for by the applicants, including any replacements needed due to sign deterioration or damage. The applicant is responsible for providing the traffic and safety bureau with the applicant’s current contact information so the applicant can be contacted when a replacement sign is needed. Failure to comply with this requirement may result in removal of all signs the applicant purchased. This would allow a new private entity to sponsor the signing.

f. The applicant shall be responsible for the cost to install the sign, including the posts and hardware. Payment to the department must be received prior to the installation of the sign.

g. The department shall install the sign.

131.11(3) Procedures.

a. A written request to purchase or install a sign shall be submitted to the traffic and safety bureau.

b. The request shall contain the following:

(1) The applicant’s name and contact information.

(2) A description of the location where the sign is to be installed.

(3) If the sign will be purchased from the department or a private sign shop.

131.11(4) Approval. If the request complies with this rule, the traffic and safety bureau shall respond to the applicant with approval of the proposed location or modified location and an estimate of the costs for the sign and installation. Following inspection of the sign in compliance with subrule 131.11(5) and receipt of payment, the department shall install the sign.

TRANSPORTATION DEPARTMENT[761](cont'd)

131.11(5) Inspection. If a sign is not purchased from the department sign shop, the applicant shall deliver the sign to the department sign shop for inspection. Upon receipt of the sign, the department shall inspect the sign for compliance with the approved sign design and departmental specifications and notify the applicant.

ITEM 11. Amend rule 761—131.15(321) as follows:

761—131.15(321) Information and address. Information regarding the signing addressed in this chapter is available from: ~~Office of~~ Traffic and Safety Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010. Submissions to the ~~office of~~ traffic and safety bureau shall also be sent or delivered to this address.

ITEM 12. Amend **761—Chapter 131**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 314.31, 321.252 and 321.253.

ARC 5292C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

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

The Department of Transportation hereby proposes to amend Chapter 511, “Special Permits for Operation and Movement of Vehicles and Loads of Excess Size and Weight,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 307.12 and 321E.15.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 321.454, 321.456, 321.457 and 321E.29.

Purpose and Summary

This proposed rule making updates Chapter 511 to align the rules with existing legal authority, Department practice, and Iowa Code chapters 321 and 321E as amended by 2020 Iowa Acts, House File 2310, sections 1 to 4.

The proposed amendments strike references to the permit for divisible loads of hay, straw, stover, or bagged livestock bedding since that permit was eliminated by the Legislature and clarifies that a permit for special or emergency circumstances is also authorized under Iowa Code section 321E.29(1). The proposed amendments also add a reference to the fee for a special alternative energy permit, which is set forth in Iowa Code section 321E.14 but was not previously included in Chapter 511. A technical change is proposed to the payment methods accepted by the Department so that the rule will align with current Department procedures.

The proposed amendments conform with the current Department practice of permittees accessing the most up-to-date route and detour information from the 511ia.org website, rather than having to call a person at the Department to receive the information.

Fiscal Impact

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

TRANSPORTATION DEPARTMENT[761](cont'd)

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on December 22, 2020. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Strategic Communications and Policy Bureau
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

If requested, a public hearing to hear oral presentations will be held on December 28, 2020, via conference call from 1 to 2 p.m. Persons who wish to participate in the conference call should contact Tracy George before 4:30 p.m. on December 22, 2020, to facilitate an orderly hearing. A conference call number will be provided to participants prior to the hearing.

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

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

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend subrule 511.2(4), introductory paragraph, as follows:

511.2(4) Except as provided in ~~subrule 511.7(6) and~~ rule 761—511.15(321,321E), permits may be issued only for the transporting of a single article which exceeds statutory size or weight limits or both, and which cannot reasonably be divided or reduced to statutory size and weight limits. However, permits may be issued for the transporting of property consisting of more than one article when:

ITEM 2. Amend paragraph **511.4(2)“a”** as follows:

a. Applications for permits for movement on the primary road system shall be made online or ~~on~~ a in the form and manner prescribed by the department.

TRANSPORTATION DEPARTMENT[761](cont'd)

ITEM 3. Amend rule 761—511.5(321,321E) as follows:

761—511.5(321,321E) Fees and charges.

511.5(1) No change.

511.5(2) ~~Annual Special or emergency~~ *oversize permit for certain divisible loads*. A fee of \$25 shall ~~may~~ be charged for each ~~annual~~ single-trip permit issued pursuant to Iowa Code section 321E.29, payable prior to the issuance of the permit. ~~Only divisible loads of hay, straw, stover, or bagged livestock bedding are permitted under this permit.~~

511.5(3) to 511.5(9) No change.

511.5(10) *Special alternative energy multitrip permit*. A fee of \$600 shall be charged for each special alternative energy multitrip permit issued pursuant to Iowa Code section 321E.9B, payable prior to the issuance of the permit.

~~511.5(10)~~ **511.5(11)** *Compacted rubbish permit*. A fee of \$100 shall be charged for each compacted rubbish permit, payable prior to the issuance of the permit.

~~511.5(11)~~ **511.5(12)** *Duplicate permit*. A fee of \$2 shall be charged for each duplicate permit, payable prior to the issuance of the permit.

~~511.5(12)~~ **511.5(13)** *Registration fee*. A registration fee shall be charged for vehicles transporting buildings, except mobile homes and factory-built structures, on a single-trip basis. The vehicle shall be registered for the combined gross weight of the vehicle and load. The fee shall be 5 cents per ton exceeding the weight registered under Iowa Code section 321.122 per mile of travel and shall be payable prior to the issuance of the permit. Fees shall not be prorated for fractions of miles.

~~511.5(13)~~ **511.5(14)** *Fair and reasonable costs*. Permit-issuing authorities may charge any permit applicant:

a. A fair and reasonable cost for the removal and replacement of natural obstructions or official signs and signals.

b. A fair and reasonable cost for measures necessary to avoid damage to public property including structures and bridges.

~~511.5(14)~~ **511.5(15)** *Methods of payment*. Fees and costs required under this chapter shall ~~normally~~ be paid by ~~credit card, certified check, cashier's check, traveler's check, bank draft or cash. Personal checks may be accepted at the discretion of the permit-issuing authority in the form and manner prescribed by the department.~~

This rule is intended to implement Iowa Code sections 321.12, 321.122, 321E.14, 321E.29, 321E.29A and 321E.30.

ITEM 4. Amend rule 761—511.7(321,321E), introductory paragraph, as follows:

761—511.7(321,321E) Annual permits. Annual permits are issued for indivisible vehicles or indivisible loads for travel when the dimensions of the vehicle or load exceed statutory limits but the weight is within statutory limits. Routing is subject to embargoed bridges and roads and posted speed limits. The owner or operator shall select a route using the vertical clearance map and road construction and travel restrictions map provided by the department. ~~Detour Route, detour and road embargo information may also be found online at: www.511ia.org. Prior to making the move, the owner or operator shall contact the department by telephone at (515)237-3264 between 8 a.m. and 4:30 p.m., Monday through Friday, except for legal holidays, to verify that the owner or operator is using the most recent information.~~ Annual permits are issued for the following:

ITEM 5. Rescind subrule **511.7(6)**.

ITEM 6. Amend rule **761—511.7(321,321E)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.454, 321.456, 321.457, 321.463, 321E.2, 321E.3, 321E.8, 321E.10, ~~321E.29~~ and 321E.29A.

ITEM 7. Amend paragraph **511.8(1)“e”** as follows:

e. Routing. The owner or operator shall select a route using a vertical clearance map, bridge embargo map, pavement restrictions map, and construction and travel restrictions map provided by the

TRANSPORTATION DEPARTMENT[761](cont'd)

department. ~~Detour~~ Route, detour and road embargo information may be found online at www.511ia.org. ~~The owner or operator shall contact the department by telephone at (515)237-3264 between 8 a.m. and 4:30 p.m., Monday through Friday, except for legal holidays, prior to making the move to verify that the owner or operator is using the most recent information.~~

ITEM 8. Rescind and reserve subrule **511.9(6)**.

ITEM 9. Amend rule **761—511.9(321,321E)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.454, 321.456, 321.457, 321.463, 321E.2, 321E.3, 321E.8, and 321E.10 ~~and 321E.29~~.

ITEM 10. Amend rule **761—511.12(321,321E)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.454, 321.456, 321.457, 321.463, 321E.2, 321E.3, and 321E.9 ~~and 321E.29~~.

ITEM 11. Rescind subrule **511.15(4)**.

ARC 5297C

VETERINARY MEDICINE BOARD[811]

Notice of Intended Action

Proposing rule making related to disclosure of patient records and providing an opportunity for public comment

The Board of Veterinary Medicine hereby proposes to amend Chapter 12, “Standards of Practice,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 169.5.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 169.5.

Purpose and Summary

The proposed amendment allows veterinarians to disclose patient records when the law authorizes or requires them to disclose such information.

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.

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 22, 2020. Comments should be directed to:

VETERINARY MEDICINE BOARD[811](cont'd)

Maury Noonan
Iowa Department of Agriculture and Land Stewardship
Wallace State Office Building
502 East 9th Street
Des Moines, Iowa 50319
Phone: 515.281.7808
Email: maury.noonan@iowaagriculture.gov

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Amend subrule 12.4(2), introductory paragraph, as follows:

12.4(2) Patient records. Veterinary medical records are an integral part of veterinary care. Medical records are the property of the veterinary practice. Each licensed veterinarian shall maintain for at least five years an easily retrievable record for each patient that receives veterinary services. The record must be available for inspection by the client during normal business hours. The information within veterinary medical records is privileged and confidential and shall not be released except by court order, a public health emergency, ~~or~~ consent of the client, or as otherwise authorized by law. The licensed veterinarian in charge shall provide a copy of the complete record to the client not later than two business days after the licensed veterinarian or practice receives from the client a request for the record. A licensed veterinarian or veterinary practice may have an additional three business days to provide a copy of nondigital diagnostic images. The licensed veterinarian may charge reasonable and customary fees for the copying of records.

ARC 5291C

REVENUE DEPARTMENT[701]

Adopted and Filed Emergency

Rule making related to electronic and paper filings

The Revenue Department hereby amends Chapter 7, “Practice and Procedure Before the Department of Revenue,” and Chapter 8, “Forms and Communications,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 17A.3, 421.14, 422.13, 422.14, 422.16, 422.36, 423.31, 450.53, 452A.60 and 453A.14.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 17A.3, 421.14, 422.13, 422.14, 422.16, 422.36, 423.31, 450.53, 452A.60 and 453A.14.

Purpose and Summary

The purpose of this rule making is to move selected language related to electronic return filings in general from Chapter 7 to Chapter 8. Chapter 8 is a more appropriate location for this information. The amendment to rule 701—8.2(17A,421) expands options for signatures on paper filings to include copies and facsimiles of signatures.

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

Pursuant to Iowa Code section 17A.4(3), the Department finds that notice and public participation are unnecessary or impractical because the current COVID-19 pandemic necessitates that the Department expediently expand options for taxpayers and practitioners to interact with each other and the Department by electronic means. Over the past several months, it became clear that permitting copies of signatures on paper filings would be beneficial to members of the public as they continue to observe state and federal guidelines related to COVID-19.

In compliance with Iowa Code section 17A.4(3)“a,” the Administrative Rules Review Committee at its November 10, 2020, meeting reviewed the Department’s determination and this rule making and approved the emergency adoption.

Reason for Waiver of Normal Effective Date

Pursuant to Iowa Code section 17A.5(2)“b”(1)(b), the Department also finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective on November 10, 2020, because it confers a benefit to the public that will aid in the protection of public health.

Adoption of Rule Making

This rule making was adopted by the Department on November 10, 2020.

Concurrent Publication of Notice of Intended Action

In addition to its adoption on an emergency basis, this rule making has been initiated through the normal rule-making process and is published herein under Notice of Intended Action as **ARC 5294C** to allow for public comment.

REVENUE DEPARTMENT[701](cont'd)

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the 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 became effective on November 10, 2020.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 7.5(3) as follows:

7.5(3) The signature of the petitioner, party, or authorized representative submitting the filing shall be ~~subscribed in writing~~ affixed to the original of all pleadings, petitions, briefs, or motions and shall be an individual's, and not a firm's an entity's, name except that the signature of a corporation shall be the name of the corporation by one of its active officers. The name and mailing address of the party or the party's representative actually signing shall be typed or printed immediately beneath the written signature. The signature shall constitute a certification that the signer has read the document; that to the best of the signer's knowledge, information, and belief, every statement contained in the document is true; and that no such statement is misleading.

a. A taxpayer or ~~the taxpayer's~~ representative using email or other electronic means to submit ~~an income tax return, a sales tax or use tax return, a return for any other tax administered by the department, an application for a sales tax permit or other permit, a deposit form for remitting withholding tax or other taxes administered by the department, or any other~~ a document described in this rule to the department may use an electronic signature, or a signature designated by the department in lieu of a handwritten signature. To the extent that a taxpayer or ~~the taxpayer's~~ representative submits to the department a ~~tax return, deposit document, application or other~~ document by email or other electronic means with an electronic signature or signature designated by the department, the taxpayer should include in the record of the document the taxpayer's federal identification number so that the taxpayer's identity is established. For purposes of this rule, "electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a ~~tax return, deposit document, or other~~ document filed with the department and executed or adopted by a person with the intent to sign the ~~return, deposit document, or other~~ document filed with the department. For purposes of this rule, "signature designated by the department" means a symbol or other information that is provided by the department to the taxpayer or the taxpayer's representative and is to serve instead of the handwritten signature of the taxpayer. Electronic signatures appear in many forms and may be created by many different technologies.

b. ~~In a situation where~~ If the taxpayer or ~~the taxpayer's~~ representative has submitted a ~~return or other~~ document to the department by email, the taxpayer should include the taxpayer's email address in the record of the document.

REVENUE DEPARTMENT[701](cont'd)

c. The department will accept either the original document, an electronically scanned and transmitted document, a facsimile, or a copy. All copies, facsimiles, and electronically scanned and transmitted documents must include a valid signature of the taxpayer or taxpayer's representative, as applicable.

d. However, notwithstanding the above information, a taxpayer may not submit a ~~tax return or other~~ document to the department with an electronic signature when a handwritten signature is required with the ~~return or~~ document by federal or state law.

ITEM 2. Amend rule 701—8.2(17A,421) as follows:

701—8.2(17A,421) Department forms.

8.2(1) Generally. The department and the director have developed and provide or prescribe department forms designed to help persons exercise their rights and discharge their duties under the tax laws and rules, to explain tax laws and rules, to assist in the administration of tax laws and rules, and to assist in general financial administration. Department forms may be available in electronic format, on paper, or in other formats as prescribed by the director. Communications with the department, for which department forms have been created, shall be carried out using those forms or substitute forms. Each direction of every instruction contained within or accompanying department forms shall be followed, and each question within or accompanying every form shall be answered as if the instructions and forms were contained in these rules.

8.2(2) Obtaining department forms. Department forms and instructions may be obtained from ~~the Taxpayer Services, Iowa Department of Revenue, Policy and Communications Division,~~ Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306-0457; by telephoning (800)367-3388 or (515)281-3114; or on the department's ~~Web site~~ website at ~~https://tax.iowa.gov/~~ tax.iowa.gov.

8.2(3) Filing department forms. A department form may be filed with the department as directed on the department form or in the corresponding instructions. Filing a department form using any other method requires prior approval from the department. Attempting to file a department form using an unapproved method may, at the discretion of the director, result in the rejection of the form and all information contained therein.

8.2(4) Removable media ~~and electronic reporting.~~ Submitting a department form on removable media, such as compact disc, requires prior approval from the department. ~~No prior approval is necessary for electronic reporting when the reporting is in accordance with department policy. Any electronic reporting of a department form requires department approval, unless otherwise authorized. Additional information regarding electronic reporting is available at Processing Services, P.O. Box 10413, Des Moines, Iowa 50306; or by e-mail at IDRSubForms@iowa.gov.~~

8.2(5) Electronic reporting. No prior approval is necessary for electronic reporting when the reporting is in accordance with department policy. Any other electronic reporting of a department form requires department approval, unless otherwise authorized. Additional information regarding electronic reporting is available at iowaforms.gov.

8.2(6) Signatures.

a. Paper filings. Unless expressly prohibited by state or federal law, a return, application, or other form may be submitted using an original signature, or a copy or facsimile of a signature. For purposes of this rule, "copy or facsimile of a signature" may be a copy or facsimile of an original signature or a copy or facsimile of an electronic signature.

b. Electronic filings. For income tax returns submitted through the IRS e-file program, see rule 701—8.5(422). For all other returns, applications, or other documents, the following applies. Unless expressly prohibited by state or federal law, a return, application or other form accepted by the department as filed by email or other electronic means may be submitted using an electronic signature or a signature designated by the department in lieu of a handwritten signature. For purposes of this rule, "electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a tax return, application, or other document filed with the department and executed or adopted by a person with the intent to sign the return, application, or other document filed with the department. Electronic signatures appear in many forms and may be created by many different technologies. No

REVENUE DEPARTMENT[701](cont'd)

specific technology is required. For purposes of this rule, “signature designated by the department” means a symbol or other information that is provided by the department to the taxpayer or the taxpayer’s representative and is to serve instead of the handwritten signature of the taxpayer. In a situation where the taxpayer or the taxpayer’s representative has submitted a return, application, or other document to the department by email, the taxpayer should include the taxpayer’s email address in the record of the document. To the extent that a document is submitted by email or other electronic means with an electronic signature or signature designated by the department, the taxpayer should include in the record of the document the taxpayer’s federal identification number so that the taxpayer’s identity is established.

This rule is intended to implement Iowa Code sections 17A.3(1) “b,” and 421.14, 422.13, 422.14, 422.16, 422.36, 423.31, 450.53, 452A.60, and 453A.14.

[Filed Emergency 11/10/20, effective 11/10/20]

[Published 12/2/20]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/2/20.

ARC 5304C

EDUCATIONAL EXAMINERS BOARD[282]**Adopted and Filed****Rule making related to military exchange license issuance fee**

The Educational Examiners Board hereby amends Chapter 12, “Fees,” and Chapter 13, “Issuance of Teacher Licenses and Endorsements,” Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

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

Purpose and Summary

These amendments remove the military exchange license issuance fee, which will reduce fees for military exchange license applicants and streamline accounting.

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 5168C**. A public hearing was held on September 30, 2020, at 1 p.m. in the Board Room, 701 East Court Avenue, Suite A, 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 23, 2020.

Fiscal Impact

The Board issues approximately 25 military exchange licenses per year. This amendment would reduce the Board’s collections by \$10 per military exchange license, for a total estimated fiscal impact of approximately \$250 per year.

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

Effective Date

This rule making will become effective on January 6, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend rule 282—12.1(272) as follows:

282—12.1(272) Issuance of licenses, certificates, authorizations, and statements of professional recognition. All application and licensure fees are nonrefundable. The fee for the issuance of a license, certificate, statement of professional recognition, or authorization shall be \$85 unless otherwise specified below:

1. Class E emergency license shall be \$150.
2. Paraeducator certificate shall be \$40.
3. Behind-the-wheel authorization shall be \$40.
4. Military exchange license shall not require a fee for issuance.

ITEM 2. Rescind paragraph **13.17(3)“f.”**

[Filed 11/3/20, effective 1/6/21]

[Published 12/2/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/2/20.

ARC 5303C

EDUCATIONAL EXAMINERS BOARD[282]

Adopted and Filed

Rule making related to substitute authorization

The Educational Examiners Board hereby amends Chapter 13, “Issuance of Teacher Licenses and Endorsements,” Chapter 22, “Authorizations,” and Chapter 24, “Paraeducator Certificates,” Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

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

Purpose and Summary

These amendments add substitute authority to holders of the career and technical education authorization, professional service license, and native language teaching authorization; increase the day limit for work in one assignment by a holder of the substitute authorization; change the degree requirement from a bachelor's degree to an associate's degree or 60 semester hours of college coursework from a regionally accredited institution; allow for reciprocity; and add a substitute authorization as an area of concentration for paraeducators.

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 5169C**. A public hearing was held on September 30, 2020, at 1 p.m. in the Board Room, 701 East Court Avenue, Suite A, Des Moines, Iowa. No one attended the public hearing.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

The Board received six public comments. Two were in opposition, one from an individual administrator and one from the Iowa State Education Association. One comment from the Iowa Association of School Boards expressed opposition to the removal of the time limit for holders of the substitute authorization but support for other provisions of the rule. The three comments in support of the changes came from two individual administrators and a representative of the Rural School Advocates of Iowa and the Urban Education Network.

In response to public comment, the Board elected to adopt a version of Item 2 that does not remove the time limitation for holders of a substitute authorization to serve in one assignment. The adopted amendments increase this limitation from no more than 5 consecutive days in one assignment or 10 days in a 30-day period to no more than 10 consecutive days in one assignment.

Adoption of Rule Making

This rule making was adopted by the Board on October 23, 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 282—Chapter 6.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on January 6, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend rule 282—13.16(272) as follows:

282—13.16(272) Specific requirements for a substitute teacher's license.

13.16(1) and **13.16(2)** No change.

13.16(3) Authorization. The holder of a substitute license is authorized to substitute teach in any school system in any position in which a regularly licensed teacher is employed except in the driver's education classroom. In addition to the authority inherent in the initial, standard, master educator, professional administrator, regional exchange, full career and technical education authorization, full native language teaching authorization, professional service license, and permanent professional licenses and the endorsement(s) held, the holder of one of these regular licenses may substitute on the same basis as the holder of a substitute license while the regular license is in effect. The executive director may grant permission for a substitute to serve outside of a substitute's regular authority under unique circumstances.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

ITEM 2. Amend rule 282—22.2(272) as follows:

282—22.2(272) Substitute authorization. A substitute authorization allows an individual to substitute in grades PK-12 for no more than ~~5 ten~~ consecutive days ~~and no more than 10 days in a 30-day period~~ in one job assignment for a regularly assigned teacher who is absent, except in the driver's education classroom. A school district administrator may file a written request with the board for an extension of the ~~10-day~~ ten-day limit in one job assignment on the basis of documented need and benefit to the instructional program. ~~The licensure committee~~ executive director or appointee will review the request and provide a written decision either approving or denying the request. ~~An individual who holds a paraeducator certificate without a bachelor's degree and completes the substitute authorization program is authorized to substitute only in the special education classroom in which the individual paraeducator is employed. For these individuals, the authorization will appear on the paraeducator certificate and will not include separate renewal requirements.~~

22.2(1) Application process. Any person interested in the substitute authorization shall submit records of credit to the board of educational examiners for an evaluation in terms of the required courses or contact hours. Application materials are available from the office of the board of educational examiners, online at www.boee.iowa.gov or from institutions or agencies offering approved courses or contact hours.

a. Requirements. Applicants for the substitute authorization shall meet the following requirements:

(1) Authorization program. Applicants must complete a board of educational examiners-approved substitute authorization program consisting of the following components and totaling a minimum of 15 clock hours:

1. Classroom management. This component includes an understanding of individual and group motivation and behavior to create a learning environment that encourages positive social interaction, active engagement in learning, and self-motivation.

2. Strategies for learning. This component includes understanding and using a variety of learning strategies to encourage students' development of critical thinking, problem solving, and performance skills.

3. Diversity. This component includes understanding how students differ in their approaches to learning and creating learning opportunities that are equitable and are adaptable to diverse learners.

4. Ethics. This component includes fostering relationships with parents, school colleagues, and organizations in the larger community to support students' learning and development and to be aware of the board's rules of professional practice and competent performance.

(2) Degree or certificate. Applicants must have achieved ~~at least one of the following:~~ a minimum of an associate's degree or 60 semester hours of college coursework from a regionally accredited institution.

~~1. Hold a baccalaureate degree or higher from a regionally accredited institution.~~

~~2. Completed an approved paraeducator certification program and hold a paraeducator certificate.~~

(3) and (4) No change.

b. Additional requirements. An applicant under this subrule shall be granted a substitute authorization and will not be subject to the authorization program coursework if the following additional requirements have been met:

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

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

~~b. c.~~ *Validity.* The substitute authorization shall be valid for five years.

~~e. d.~~ *Renewal.* The authorization may be renewed upon application and verification of successful completion of:

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

(1) Renewal units. Applicants for renewal of the substitute authorization must provide verification of a minimum of two licensure renewal units or semester hours of renewal credits.

(2) Child and dependent adult abuse trainings. Every renewal applicant must submit documentation of completion of the child and dependent adult abuse trainings pursuant to 282—subrule 20.3(4).

~~22.2(2) and 22.2(3) No change.~~

~~22.2(4) Preservice substitute authorization. A nonrenewable preservice substitute authorization may be issued to applicants who do not meet the requirements in subrule 22.2(1) but who are enrolled in a state-approved Iowa teacher preparation program.~~

~~a. Requirements. Eligible applicants for the preservice substitute authorization shall meet the following requirements:~~

~~(1) Recommendation from the designated recommending official at the Iowa institution where the applicant is enrolled as a teacher preparation candidate. The recommending official will verify the following for each applicant:~~

~~1. Full admission into a teacher preparation program, which must include passing scores on entry assessments.~~

~~2. Junior or senior standing.~~

~~3. Exemplary classroom readiness as identified by the teacher preparation program.~~

~~(2) Background check. Applicants must complete the background check requirements set forth in rule 282—13.1(272).~~

~~(3) Minimum age. Applicants must have attained a minimum age of 21 years.~~

~~b. Validity. The preservice substitute authorization is valid for a maximum of two years. Holders of this authorization may not use substituting experience to supplant required field experiences or student teaching. This authorization may not be renewed or extended.~~

ITEM 3. Amend rule 282—24.4(272) as follows:

282—24.4(272) Paraeducator area of concentration. An area of concentration is not required but optional. Applicants must currently hold or have previously held an Iowa paraeducator generalist certificate. Applicants may complete one or more areas of concentration but must complete at least 45 clock hours in each area of concentration, with the exception of the substitute authorization.

24.4(1) to 24.4(8) No change.

24.4(9) Paraeducator substitute authorization. An individual who holds a paraeducator certificate and completes the substitute authorization requirements set forth in rule 282—22.2(272) but who does not meet the degree requirement in subparagraph 22.2(1)“a”(2) is authorized to substitute only in the special education classroom in which the individual paraeducator is employed.

[Filed 11/3/20, effective 1/6/21]

[Published 12/2/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/2/20.

ARC 5305C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to medical and remedial services

The Human Services Department hereby amends Chapter 9, “Public Records and Fair Information Practices,” Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” Chapter 81, “Nursing Facilities,” and Chapter 153, “Funding for Local Services,” Iowa Administrative Code.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Legal Authority for Rule Making

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

These amendments make technical corrections to administrative rules by removing references to outdated programs. In addition, corrections are made to the units of service for intermittent supported community living to bring the language into alignment with current terminology and practice. These amendments also change the number of days, from 30 to 120, a member may be in a medical institution and resume services under the state plan Home- and Community-Based Services (HCBS) Habilitation Program without having to reapply. This change aligns policy implemented in 2018 for all other waiver programs. These amendments clarify what is considered a member's home for purposes of receiving occupational, physical and speech therapy.

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 5167C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on November 9, 2020.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on February 1, 2021.

The following rule-making actions are adopted:

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 1. Amend subparagraph **9.12(1)“a”(3)** as follows:

(3) Data processing systems. Client identifying information, eligibility data, and payment data are kept in the following systems. Some of these records are also kept on microfiche.

System	Function
Automated Benefit Calculation System	Determines eligibility for FIP, food assistance, Medicaid
Automated Child Abuse and Neglect System	Inactive child abuse/neglect system
Appeals Logging and Tracking System	Tracks client appeals
BCCT Program	Establishes Medicaid eligibility for breast and cervical cancer clients
Change Reporting System	Tracks client-reported changes and produces forms needed for client-reported changes
Diversion System	Tracks clients using diversion benefits
Electronic Payment Processing and Inventory Control System	Electronically issues food assistance
Eligibility Tracking System	Tracks clients' FIP eligibility and hardship status
Family and Children's Services System	Tracks foster care, adoption, family-centered and family preservation services
Food Stamps Case Reading Application	Food assistance accuracy tool used to record case reading information
Health Insurance Premium Payment System	Health insurance premium payment
Iowa Collection and Reporting System	Tracks child support recovery processes
Iowa Central Employee Registry	Child support new hire reporting system
Iowa Eligibility Verification System	Federal social security number verification and benefits
Iowa Plan Program	Assigns group codes for Iowa Plan clients
Individualized Services Information System	Used to establish facility eligibility, process data to and from ABC and Medicaid fiscal agent, establish waiver services, providers, and eligibility
Issuance History	Displays benefit issuances for FIP and food assistance
KACT System	Authorizes foster care service units
MEPD Premium Payment Program	Accounting system for billing and payment for Medicaid for employed people with disabilities program
Managed Health Care Program	Assigns managed health care providers to clients
Medicaid Management Information Systems	Process clients' Medicaid claims and assign Medicaid coverage to clients
Overpayment Recoupment System	Used to recover money from FIP, food assistance, Medicaid, child care assistance, PROMISE JOBS, and hawki clients
Public Information Exchange	Data exchange between states
PJCASE	Iowa workforce development interface with PROMISE JOBS
Purchase of Social Services System	Purchased services (mostly child care and in-home health clients)
Presumptive Eligibility Program	Establishes Medicaid eligibility for presumptive eligibility clients

HUMAN SERVICES DEPARTMENT[441](cont'd)

System	Function
Quality Control System	Selects sample for quality control review of eligibility determination
RTS Claims Processing System	Processes rehabilitative treatment claims for federal match
State Data Exchange Display	State data exchange information for supplemental security income recipients
Social Security Buy-In System	Medicare premium buy-in
Social Services Reporting System	Services reporting system for direct and purchased services
Statewide Tracking of Assessment Reports	Tracks child abuse reports

ITEM 2. Amend subrule 78.12(5), introductory paragraph, as follows:

78.12(5) Approval of plan. The behavioral health intervention provider shall contact the ~~Iowa Plan provider~~ member's managed care plan for authorization of the services.

ITEM 3. Amend paragraph **78.12(5)“b,”** introductory paragraph, as follows:

b. Subsequent plans. The ~~Iowa Plan contractor~~ member's managed care plan may approve a subsequent services implementation plan according to the conditions in paragraph 78.12(5)“a” if the services are recommended by a licensed practitioner of the healing arts who has:

ITEM 4. Amend subparagraph **78.19(1)“a”(1)** as follows:

(1) Services are provided in the member's home or in a care facility (other than a hospital) by a speech therapist, physical therapist, or occupational therapist employed by or contracted by the agency. A nursing facility, an intermediate care facility for persons with an intellectual disability, or a hospital where services are provided is not considered a member's home.

1. Services provided to a member residing in a residential care facility licensed under Iowa Code section 135C.4 by the department of inspections and appeals are payable when the residential care facility submits a signed statement that the residential care facility does not have these services available. The statement need only be submitted at the start of care unless the situation changes. Payment

2. Under no circumstances will not be made the IME or managed care organizations (MCOs) make payments to a rehabilitation agency for therapy provided to a member residing in a nursing facility or an intermediate care facility for persons with an intellectual disability since these facilities are responsible for providing or paying for services required by members. Physical, occupational, and speech therapy services for residents of the nursing facility, intermediate care facility for persons with an intellectual disability or hospital are the responsibility of the nursing facility, intermediate care facility for persons with an intellectual disability or hospital.

ITEM 5. Amend subparagraph **78.27(10)“e”(3)** as follows:

(3) Individual supported employment is limited to ~~240~~ 60 hourly units per calendar year.

ITEM 6. Amend subparagraph **78.27(11)“c”(5)** as follows:

(5) The member has received care in a medical institution for ~~30~~ 120 consecutive days in any one stay. When a member has been an inpatient in a medical institution for ~~30~~ 120 consecutive days, the department will issue a notice of decision to inform the member of the service termination. If the member returns home before the effective date of the notice of decision and the member's condition has not substantially changed, the decision shall be rescinded, and eligibility for home- and community-based habilitation services shall continue.

ITEM 7. Amend rule 441—78.34(249A), introductory paragraph, as follows:

441—78.34(249A) HCBS ill and handicapped health and disability waiver services. Payment will be approved for the following services to members eligible for HCBS ~~ill and handicapped health and disability~~ waiver services as established in 441—Chapter 83 and as identified in the member's service plan. Effective March 17, 2022, payment shall only be made for services provided in integrated,

HUMAN SERVICES DEPARTMENT[441](cont'd)

community-based settings that support full access of members receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.

ITEM 8. Amend subrule 78.34(8), introductory paragraph, as follows:

78.34(8) *Interim medical monitoring and treatment services.* Interim medical monitoring and treatment (IMMT) services are monitoring and treatment of a medical nature for children or adults aged 18 to 20 whose medical needs make alternative care unavailable, inadequate, or insufficient. IMMT services are not intended to provide day care but to supplement available resources. Services must be ordered by a physician.

ITEM 9. Amend subrule 78.34(14), introductory paragraph, as follows:

78.34(14) *General service standards.* All ~~ill and handicapped~~ health and disability waiver services must be provided in accordance with the following standards:

ITEM 10. Amend subrule 78.41(9), introductory paragraph, as follows:

78.41(9) *Interim medical monitoring and treatment services.* Interim medical monitoring and treatment (IMMT) services are monitoring and treatment of a medical nature for children or adults aged 18 to 20 whose medical needs make alternative care unavailable, inadequate, or insufficient. IMMT services are not intended to provide day care but to supplement available resources. Services must be ordered by a physician.

ITEM 11. Amend subrule 78.43(14), introductory paragraph, as follows:

78.43(14) *Interim medical monitoring and treatment services.* Interim medical monitoring and treatment (IMMT) services are monitoring and treatment of a medical nature for children or adults aged 18 to 20 whose medical needs make alternative care unavailable, inadequate, or insufficient. IMMT services are not intended to provide day care but to supplement available resources. Services must be ordered by a physician.

ITEM 12. Amend paragraph **78.52(4)“b”** as follows:

b. In-home family therapy is exclusive of and cannot serve as a substitute for individual therapy, family therapy, or other mental health therapy that may be obtained through ~~the Iowa Plan~~ Medicaid or other funding sources.

ITEM 13. Amend subrule 79.1(2), provider category “HCBS waiver service providers,” paragraph “1,” as follows:

1. Adult day care

For AIDS/HIV, brain injury, elderly, and ~~ill and handicapped~~ health and disability waivers:
Fee schedule

Effective 7/1/16, for AIDS/HIV, brain injury, elderly, and ~~ill and handicapped~~ health and disability waivers:
Provider's rate in effect 6/30/16 plus 1%, converted to a 15-minute, half-day, full-day, or extended-day rate. If no 6/30/16 rate: Veterans Administration contract rate or \$1.47 per 15-minute unit, \$23.47 per half day, \$46.72 per full day, or \$70.06 per extended day if no Veterans Administration contract.

For intellectual disability waiver: Effective 7/1/17, for intellectual

HUMAN SERVICES DEPARTMENT[441](cont'd)

Fee schedule for the member's acuity tier, determined pursuant to 79.1(30)

disability waiver: The provider's rate in effect 6/30/16 plus 1%, converted to a 15-minute or half-day rate. If no 6/30/16 rate, \$1.96 per 15-minute unit or \$31.27 per half day.

For daily services, the fee schedule rate published on the department's website, pursuant to 79.1(1) "c," for the member's acuity tier, determined pursuant to 79.1(30).

ITEM 14. Amend paragraph **79.1(16)“q”** as follows:

q. Determination of payment amounts for mental health noninpatient (NIP) services. Mental health NIP services are limited as set forth at 441—subparagraph 78.31(4) “d”(7) and are reimbursed on a fee schedule basis. ~~Mental health NIP services are the responsibility of the managed mental health care and substance abuse (Iowa Plan) contractor for persons eligible for managed mental health care.~~

ITEM 15. Amend subparagraph **79.1(24)“b”(6)** as follows:

(6) If a provider fails to submit a cost report for services provided through June 30, 2013, that meets the requirements of this paragraph, the Iowa Medicaid enterprise ~~or the Iowa Plan for Behavioral Health contractor~~ shall reduce the provider's rate to 76 percent of the current rate. The reduced rate shall be paid until the provider's cost report has been received by the Iowa Medicaid enterprise's provider cost audit and rate setting unit pursuant to subparagraph 79.1(24) “b”(4) but for not longer than three months, after which time no further payments will be made.

ITEM 16. Amend subparagraph **81.13(14)“b”(6)** as follows:

(6) May include:

1. Acute inpatient psychiatric treatment. When inpatient psychiatric treatment may be prevented through specialized services provided in the nursing facility, services provided in the nursing facility are preferred.
2. Initial psychiatric evaluation to determine a resident's diagnosis and to develop a plan of care.
3. Follow-up psychiatric services by a psychiatrist to evaluate resident response to psychotropic medications, to modify medication orders and to evaluate the need for ancillary therapy services.
4. Psychological testing required for a specific differential diagnosis that will result in the adoption of appropriate treatment services.
5. Individual or group psychotherapy as part of a plan of care addressing specific symptoms.
6. Any clinically appropriate service which is available ~~through the Iowa plan for behavioral health~~ and for which the member meets eligibility criteria.

ITEM 17. Amend paragraph **153.55(2)“d”** as follows:

d. Service management (county chart of accounts numbers beginning with 22-000) for members eligible for Medicaid targeted case management, ~~unless the Iowa plan contractor decertifies the member for case management services.~~

[Filed 11/10/20, effective 2/1/21]

[Published 12/2/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/2/20.

ARC 5306C**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed****Rule making related to nursing facilities**

The Human Services Department hereby amends Chapter 36, "Facility Assessments," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code chapter 249L.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 249L.

Purpose and Summary

Nursing facilities are required to pay a quality assurance assessment of \$12.75 unless the nursing facility has 46 or fewer beds, is designated as a continuing care retirement center by the Insurance Division of the Iowa Department of Commerce, or has 21,000 or more Medicaid days, in which case the facility is required to pay a quality assurance assessment of \$2.45 per non-Medicare patient day. Under these amendments, the annual nursing facility determination will match up with the submission of cost reports.

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 5165C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on November 9, 2020.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

HUMAN SERVICES DEPARTMENT[441](cont'd)

Effective Date

This rule making will become effective on July 1, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph **36.6(2)“a”** as follows:

a. Effective July 1, 2019, nursing facilities with 46 or fewer licensed beds are required to pay a quality assurance assessment of \$2.45 per non-Medicare patient day. Effective with assessment for the state fiscal year beginning July 1, ~~2012~~ 2021, the number of licensed beds on file with the department of inspections and appeals as of ~~May~~ June 1 of each year shall be used to determine the assessment level for the following state fiscal year.

ITEM 2. Amend paragraph **36.6(2)“b”** as follows:

b. Effective July 1, 2019, nursing facilities designated as continuing care retirement centers (CCRCs) by the insurance division of the Iowa department of commerce are required to pay a quality assurance assessment of \$2.45 per non-Medicare patient day. Effective with assessment for the state fiscal year beginning July 1, ~~2012~~ 2021, continuing care retirement center designations as of ~~May~~ June 1 of each year shall be used to determine the assessment level for the following state fiscal year.

ITEM 3. Amend paragraph **36.6(2)“c”** as follows:

c. Effective July 1, 2019, nursing facilities with annual Iowa Medicaid patient days of 21,000 or more are required to pay a quality assurance assessment of \$2.45 per non-Medicare patient day. Effective with assessment for the state fiscal year beginning July 1, ~~2012~~ 2021, the annual number of Iowa Medicaid patient days reported in the most current cost report submitted to the Iowa Medicaid enterprise as of ~~May~~ June 1 of each year shall be used to determine the assessment level for the following state fiscal year.

[Filed 11/10/20, effective 7/1/21]

[Published 12/2/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/2/20.

ARC 5307C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to day habilitation

The Human Services Department hereby amends 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 adopted under the authority provided in Iowa Code section 249A.4.

State or Federal Law Implemented

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

Purpose and Summary

The purpose of these amendments is to implement guidance provided from the Centers for Medicare and Medicaid Services (CMS), which clarifies that day habilitation services may provide a pathway to employment for the home- and community-based services (HCBS) day habilitation services provided through the HCBS intellectual disabilities (ID) waiver and state plan HCBS Habilitation Program

HUMAN SERVICES DEPARTMENT[441](cont'd)

for persons with chronic mental illness. These amendments clarify the activities provided through day habilitation to assist members in participating in the community, developing social roles and responsibilities, and increasing independence and the potential for employment. The Department convened a work group to address the requirements for providers and scope of services.

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 5166C**.

The Department received comments from three organizations.

Comment 1: The Department received one comment on subparagraphs 77.25(7)“b”(3) and 77.25(7)“b”(4), regarding direct support staff qualifications.

The suggestion was made that clarification be added to the rule regarding the phrase “or other nationally recognized training curriculum.”

Department response: The phrase “or other nationally recognized training curriculum” is intended to allow providers the flexibility to use another preferred nationally recognized training curriculum for day habilitation services as an alternative to those day habilitation training courses available through DirectCourse or Relias.

Comment 2: The Department received one comment on subparagraph 78.27(8)“a”(7), regarding participating in adult learning opportunities.

Previously, educational opportunities and supports for these programs have been a nonbillable activity. The request was made to further define adult learning activities.

Department response: Learning opportunities for adults do not include those education and related services mandated under the Individuals with Disabilities Education Act (IDEA). Adult learning opportunities include opportunities to participate in classes or other activities consistent with the individual’s preferences, choices, and interests such as computers, social media, cooking, gardening, creative writing, music and art. The IDEA requires the provision of comprehensive education and related services to children and youth with disabilities who are enrolled in special education programs. When a state proposes to include education services in its waiver, CMS will review the proposed waiver coverage to ensure that it does not provide for payment of services that are mandated under the IDEA.

Comment 3: One provider commented on paragraph 78.27(8)“b,” regarding the family training option.

The paragraph states that day habilitation services may include training families in treatment and support methodologies or in the care and use of equipment and that family training may be provided in the member’s home. The provider asked the Department to clarify whether the training will need to occur with the member present for this to be a direct and billable service.

Department response: The family training option is intended to be provided to the member and the member’s family in treatment and support methodologies or in the care and use of equipment. Because day habilitation is a direct service provided to the member, the member must be present during service delivery.

Comment 4: One provider commented on paragraph 78.27(8)“h,” regarding transportation. The paragraph states that when transportation is provided to the day habilitation service location to the member’s home and from the day habilitation service location to the member’s home, the day habilitation provider may bill for the time spent transporting the member.

The provider asked the Department to clarify whether transportation can be billed as a direct service and asked, if so, can it be billed as a round trip or as a one-way trip.

Department response: Transportation provided to the member participating in day habilitation to transport the member to the day habilitation service location from the member’s home and back to the member’s home from the service location is billed as part of the day habilitation service delivery time and is not separately billed.

Comment 5: One provider commented on subparagraph 78.27(8)“i”(1), regarding exclusions of vocational or prevocational services that are available to the individual under a program funded under

HUMAN SERVICES DEPARTMENT[441](cont'd)

Section 110 of the Rehabilitation Act of 1973 or the IDEA (20 U.S.C. 1401 et seq.) and which states that documentation that funding is not available to the individual for the service under these programs shall be maintained in the service plan of each member receiving day habilitation services.

The provider asked the Department to clarify in the final sentence as to the specific (case management or service provider) plan in which this documentation is to be maintained.

Department response: The documentation that funding is not available to the individual for the service must be maintained in the HCBS comprehensive person-centered service plan developed by the HCBS case manager or care coordinator for each member receiving the day habilitation service.

Comment 6: One provider expressed concern that the proposed amendments introduce additional training requirements without increasing the rates of reimbursement for the services. The provider stated a firm belief that ongoing education is imperative to both ensuring a high-level quality of service as well as supporting staff and noted, however, that when the rules were amended to increase the training requirements for supported employment, which mirrors the proposed requirement for day habilitation, the rates were adjusted to reflect the change. The provider stated that if rates are not increased in conjunction with this amendment, the additional cost of ongoing training will have to be absorbed in budgets already stretched thin and that current day habilitation rates are not sufficient in covering the cost of the service and staff compensation.

Department response: The amendments are not applicable to the reimbursement methodology for day habilitation services. The Department does not have the authority to increase day habilitation reimbursement rates at this time. To amend the reimbursement rates for day habilitation would require legislation. The reimbursement methodologies applied to implement the Employment Service Redesign for Prevocational and Supported Employment services were based on the adjustments being cost-neutral. The Prevocational and Small Group Supported Employment reimbursement rates were adjusted down in order to increase the reimbursement for Individual Supported Employment and Long Term Job Coaching and implement the additional provider qualifications and staff training requirements for Individual Supported Employment and Long Term Job Coaching. The Department makes assurances to CMS that providers are qualified to deliver the service, and the Department must demonstrate that it has designed and implemented an adequate system for assuring that all waiver services are provided by qualified providers. By adding the requirement that direct support staff providing day habilitation services complete at least nine and a half hours of training within the first six months of hire and four hours of training annually thereafter, the State is demonstrating that day habilitation services are provided by qualified providers.

Comment 7: One provider stated the rule-making actions mirror the changes and efforts made by Iowa's Disability Employment Services Redesign Workgroup and that the same rate and methodology should also be utilized to support a high-quality funding system. The provider strongly recommended that the proposed rule-making actions include the following key elements, as utilized by the Employment Services Redesign Workgroup, to ensure successful funding at the individual and provider level: annual wage adjustments, employment, professional training and staff development, supervision, travel costs (mileage or alternative), nonbillable tasks, productivity adjustment, and billable hours.

Department response: Please see the response to Comment 6 above.

No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on November 9, 2020.

Fiscal Impact

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

Jobs Impact

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

HUMAN SERVICES DEPARTMENT[441](cont'd)

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on February 1, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 77.25(7) as follows:

77.25(7) Day habilitation.

a. The following providers may provide day habilitation:

~~a.~~ (1) An agency that is accredited by the Commission on Accreditation of Rehabilitation Facilities to provide services that qualify as day habilitation under 441—subrule 78.27(8).

~~b.~~ (2) An agency that is accredited by the Commission on Accreditation of Rehabilitation Facilities to provide other services and began providing services that qualify as day habilitation under 441—subrule 78.27(8) since the agency's last accreditation survey. The agency may provide day habilitation services until the current accreditation expires. When the current accreditation expires, the agency must qualify under ~~paragraph~~ "a," "d," "g," or "h." subparagraph 77.25(7)"a"(1), 77.25(7)"a"(4), or 77.25(7)"a"(7).

~~c.~~ (3) An agency that is not accredited by the Commission on Accreditation of Rehabilitation Facilities but has applied to the Commission within the last 12 months for accreditation to provide services that qualify as day habilitation under 441—subrule 78.27(8). An agency that has not received accreditation within 12 months after application to the Commission is no longer a qualified provider.

~~d.~~ (4) An agency that is accredited by the Council on Quality and Leadership in Supports for People with Disabilities.

~~e.~~ (5) An agency that has applied to the Council on Quality and Leadership in Supports for People with Disabilities for accreditation within the last 12 months. An agency that has not received accreditation within 12 months after application to the Council is no longer a qualified provider.

~~f.~~ (6) An agency that is accredited under 441—Chapter 24 to provide day treatment or supported community living services.

~~g.~~ ~~An agency that is certified by the department to provide day habilitation services under the home and community-based services intellectual disability waiver pursuant to rule 441—77.37(249A).~~

~~h.~~ (7) An agency that is accredited by the International Center for Clubhouse Development.

~~i.~~ (8) An agency that is accredited by the Joint Commission on Accreditation of Healthcare Organizations.

b. Direct support staff providing day habilitation services shall meet the following minimum qualifications in addition to other requirements outlined in administrative rule:

(1) A person providing direct support without line-of-sight supervision shall be at least 18 years of age and possess a high school diploma or equivalent degree. A person providing direct support with line-of-sight supervision shall be 16 years of age or older.

(2) A person providing direct support shall not be an immediate family member of the member.

HUMAN SERVICES DEPARTMENT[441](cont'd)

(3) A person providing direct support shall, within six months of hire or within six months of February 1, 2021, complete at least 9.5 hours of training in supporting members in the activities listed in 701—paragraph 78.27(8)“a,” as offered through DirectCourse or Relias or other nationally recognized training curriculum.

(4) A person providing direct support shall annually complete 4 hours of continuing education in supporting members in the activities listed in 701—paragraph 78.27(8)“a,” as offered through DirectCourse or Relias or other nationally recognized training curriculum.

ITEM 2. Rescind subrule 77.37(27) and adopt the following **new** subrule in lieu thereof:

77.37(27) Day habilitation providers. Day habilitation services may be provided by agencies meeting the qualifications in subrule 77.25(7).

ITEM 3. Amend subrule 78.27(8) as follows:

78.27(8) Day habilitation. “Day habilitation” means services that provide opportunities and support for community inclusion and build interest in and develop skills for active participation in recreation, volunteerism and integrated community employment. Day habilitation provides assistance with acquisition, retention, or improvement of self-help, socialization, and adaptive skills community participation, and daily living skills.

a. Scope. Day habilitation activities and environments are designed to foster the acquisition of skills, ~~appropriate~~ positive social behavior, greater independence, and personal choice. Services focus on enabling supporting the member to participate in the community, develop social roles and relationships, and increase independence and the potential for employment. Services are designed to assist the member to attain or maintain the member’s maximum functional level and shall be coordinated with any physical, occupational, or speech therapies in the comprehensive service plan. Services may serve to reinforce skills or lessons taught in other settings. Services must enhance or support the member’s individual goals as identified in the member’s comprehensive service plan. Services may also provide wraparound support secondary to community employment. Day habilitation activities may include:

(1) ~~Intellectual functioning;~~ Identifying the member’s interests, preferences, skills, strengths and contributions,

(2) ~~Physical and emotional health and development;~~ Identifying the conditions and supports necessary for full community inclusion and the potential for competitive integrated employment,

(3) ~~Language and communication development;~~ Planning and coordination of the member’s individualized daily and weekly day habilitation schedule,

(4) ~~Cognitive functioning;~~ Developing skills and competencies necessary to pursue competitive integrated employment,

(5) ~~Socialization and community integration;~~ Participating in community activities related to hobbies, leisure, personal health, and wellness,

(6) ~~Functional skill development;~~ Participating in community activities related to cultural, civic, and religious interests,

(7) ~~Behavior management;~~ Participating in adult learning opportunities,

(8) ~~Responsibility and self-direction;~~ Participating in volunteer opportunities,

(9) ~~Daily living activities;~~ Training and education in self-advocacy and self-determination to support the member’s ability to make informed choices about where to live, work, and recreate,

(10) ~~Self-advocacy skills; or~~ Assistance with behavior management and self-regulation,

(11) ~~Mobility.~~ Use of transportation and other community resources,

(12) Assistance with developing and maintaining natural relationships in the community,

(13) Assistance with identifying and using natural supports,

(14) Assistance with accessing financial literacy and benefits education,

(15) Other activities deemed necessary to assist the member with full participation in the community, developing social roles and relationships, and increasing independence and the potential for employment.

b. Family training option. Day habilitation services may include training families in treatment and support methodologies or in the care and use of equipment. Family training may be provided in

HUMAN SERVICES DEPARTMENT[441](cont'd)

the member's home. The unit of service is 15 minutes. The units of services payable are limited to a maximum of 40 units per month.

c. *Expected outcome of service.* The expected outcome of day habilitation services is active participation in the community in which the member lives, works, and recreates. Members are expected to have opportunities to interact with individuals without disabilities in the community, other than those providing direct services, to the same extent as individuals without disabilities.

b. *d. Setting.* Day habilitation shall take place in community-based, nonresidential settings separate from the member's residence. Family training may be provided in the member's home.

e. *e. Duration.* Day habilitation services shall be furnished for four or more hours per day on a regularly scheduled basis for one or more days per week or as specified in the member's comprehensive service plan. Meals provided as part of day habilitation shall not constitute a full nutritional regimen (three meals per day).

f. *Unit of service.* A unit of day habilitation is 15 minutes (up to 16 units per day) or a full day (4.25 to 8 hours).

g. *Concurrent services.* A member's comprehensive service plan may include two or more types of nonresidential habilitation services (e.g., day habilitation, individual supported employment, long-term job coaching, small-group supported employment, and prevocational services). However, more than one service may not be billed during the same period of time (e.g., the same hour).

h. *Transportation.* When transportation is provided to the day habilitation service location from the member's home and from the day habilitation service location to the member's home, the day habilitation provider may bill for the time spent transporting the member.

d. *i. Exclusions.* Day habilitation payment shall not be made for the following:

(1) ~~Vocational or prevocational services.~~ Services that are available to the individual under a program funded under Section 110 of the Rehabilitation Act of 1973 or the Individuals with Disabilities Education Act (20 U.S.C. 1401 et seq.). Documentation that funding is not available to the individual for the service under these programs shall be maintained in the service plan of each member receiving day habilitation services.

(2) ~~Services that duplicate or replace education or related services defined in Public Law 94-142, the Education of the Handicapped Act.~~

(3) ~~(2) Compensation to members for participating in day habilitation services.~~

(3) Support for members volunteering in for-profit organizations and businesses.

(4) Support for members volunteering to benefit the day habilitation service provider.

ITEM 4. Rescind subrule 78.41(14) and adopt the following **new** subrule in lieu thereof:

78.41(14) Day habilitation. Day habilitation services will be provided pursuant to subrule 78.27(8).

[Filed 11/10/20, effective 2/1/21]

[Published 12/2/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/2/20.

ARC 5308C

REVENUE DEPARTMENT[701]

Adopted and Filed

Rule making related to adoption tax credit

The Revenue Department hereby amends Chapter 42, "Adjustments to Computed Tax and Tax Credits," Iowa Administrative Code.

Legal Authority for Rule Making

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

REVENUE DEPARTMENT[701](cont'd)

State or Federal Law Implemented

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

Purpose and Summary

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

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 5181C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on November 12, 2020.

Fiscal Impact

This rule making has no fiscal impact beyond that of the legislation it is intended to implement.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 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 January 6, 2021.

The following rule-making action is adopted:

Amend rule 701—42.52(422) as follows:

701—42.52(422) Adoption tax credit. Effective for tax years beginning on or after January 1, 2014, an adoption tax credit is available for individual income tax equal to the amount of qualified adoption expenses paid or incurred by a taxpayer ~~during the tax year~~ related to the adoption of a child. For an

REVENUE DEPARTMENT[701](cont'd)

adoption finalized on or after January 1, 2014, but before January 1, 2017, the total adoption tax credit claimed for the adoption may not exceed \$2,500. For an adoption finalized on or after January 1, 2017, the total adoption tax credit claimed for the adoption may not exceed \$5,000.

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

42.52(4) *Claiming the credit.*

a. No change.

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

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

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

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

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

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

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

EXAMPLE: Y and Z are married. Y and Z adopt a child who is permanently placed in Iowa. The adoption process begins in 2016 and becomes final in 2019. Because the adoption becomes final on or after January 1, 2017, Y and Z qualify for a maximum credit amount of \$5,000. Additionally, because the adoption becomes final on or after January 1, 2019, Y and Z may claim an Iowa adoption tax credit for unreimbursed qualified adoption expenses paid or incurred prior to or in the year the adoption becomes final. Y and Z incur and pay unreimbursed qualified adoption expenses of \$5,000 in 2016, \$10,000 in 2017, \$2,000 in 2018, and \$2,000 in 2019. Y and Z jointly file their Iowa individual income tax return in 2019. Y and Z may claim an Iowa adoption tax credit of \$5,000 on their 2019 Iowa income tax return.

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Y and Z are not allowed to amend a prior year return in an attempt to claim the credit for unreimbursed qualified adoption expenses paid or incurred prior to the tax year in which the adoption became final.

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

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

d. to f. No change.

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

[Filed 11/12/20, effective 1/6/21]

[Published 12/2/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/2/20.

ARC 5310C

REVENUE DEPARTMENT[701]

Adopted and Filed

Rule making related to homestead tax credit and military service tax exemption

The Revenue Department hereby amends Chapter 80, "Property Tax Credits and Exemptions," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

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

Purpose and Summary

This rule making is intended to clean up various provisions in existing rules related to the homestead tax credit and the military service tax exemption. In particular, this rule making defines "under honorable conditions" for purposes of the disabled veteran tax credit and the military service tax exemption, describes the application requirements for the disabled veteran tax credit, and describes the eligibility of a person who has received multiple discharges from service for the disabled veteran tax credit. This rule making also clarifies the language of existing subrules regarding the applicability of the homestead tax credit and the military service tax exemption to a shareholder of a family farm

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corporation, the applicability of the homestead tax credit to a person owning a homestead dwelling located upon land owned by another person or entity, and the Iowa residency requirement for a person claiming a military service tax exemption. Lastly, this rule making removes unnecessary citations.

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 5104C**. An Amended Notice of Intended Action was published in the Iowa Administrative Bulletin on October 7, 2020, as **ARC 5210C**. No public comments were received. One change from the Notice has been made to subparagraph 80.1(3)“c”(3) to correct the name of the award letter.

Adoption of Rule Making

This rule making was adopted by the Department on November 12, 2020.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on January 6, 2021.

The following rule-making actions are adopted:

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

701—80.1(425) Homestead tax credit.

80.1(1) Application for credit.

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

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the amount of credit allowed. The assessor, county auditor, and county board of supervisors shall act on the claim in accordance with Iowa Code section 425.3. A claim filed after July 1 of any calendar year applies to the following assessment year.

b. to f. No change.

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

80.1(2) Eligibility for credit.

a. If homestead property is owned jointly by persons who are not related or formerly related by blood, marriage or adoption, no homestead tax credit shall be allowed unless all the owners actually occupy the homestead property on July 1 of each year. (~~1944 O.A.G. 26; Letter O.A.G. October 18, 1941~~)

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

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

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

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

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

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

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

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

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

k. A person owning a homestead dwelling located upon land owned by another person or entity is not eligible for a homestead tax credit. (~~1942 O.A.G. 160, O.A.G. 82-4-9~~) This rule is not applicable to a person owning a homestead dwelling pursuant to Iowa Code chapter 499B or a person owning a homestead dwelling on land owned by a community land trust pursuant to 42 U.S.C. Section 12773-2,

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provided that such a person is liable for and pays property tax on the homestead as required under Iowa Code section 425.11(1)“e.”

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

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

a. No change.

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

(1) Under other than honorable conditions;

(2) Dishonorable;

(3) Bad conduct;

(4) Uncharacterized; or

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

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

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

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

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

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

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with the application for the disabled veteran tax credit. The applicant's Benefit Summary Letter must also indicate the applicant's periods of service and each character of discharge.

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

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

80.1(4) Application of credit.

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

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

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

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

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

f. to h. No change.

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

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

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

80.2(1) Application for exemption.

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

b. to e. No change.

80.2(2) Eligibility for exemption.

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

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

c. Former members of the United States armed forces, including members of the Coast Guard, who were on active duty for less than 18 months must have served on active duty during one of the war or conflict time periods enumerated in Iowa Code Supplement section 35.1. If former members were on active duty for at least 18 months, it is not necessary that their service be performed during one of the

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war or conflict time periods. Former members who opted to serve five years in the reserve forces of the United States qualify if any portion of their enlistment would have occurred during the Korean Conflict (June 25, 1950, to January 31, 1955). There is no minimum number of days a former member of the armed forces of the United States must have served on active duty if the service was performed during one of the war or conflict time periods, nor is there a minimum number of days a former member of the armed ~~forces~~ forces of the United States must have served on active duty if the person was honorably discharged because of a service-related injury sustained while on active duty.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

t. and *u.* No change.

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

- (1) Under other than honorable conditions;
- (2) Dishonorable;
- (3) Bad conduct;
- (4) Uncharacterized; or
- (5) A similar expression indicating that the discharge or release was not under honorable circumstances.

80.2(3) Application of exemption.

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

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

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

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

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

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

[Filed 11/12/20, effective 1/6/21]

[Published 12/2/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/2/20.

ARC 5309C

REVENUE DEPARTMENT[701]

Adopted and Filed

Rule making related to silviculture

The Revenue Department hereby amends Chapter 211, "Definitions," and Chapter 226, "Agricultural Rules," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 421.14.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 423.1 as amended by 2013 Iowa Acts, Senate File 452, section 125.

Purpose and Summary

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

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

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 7, 2020, as **ARC 5218C**. A public hearing was held on October 27, 2020, at 10 a.m. via Google Meet.

The hearing was attended by representatives of the Iowa-Nebraska Equipment Dealers Association (INEDA) and the Coalition for Iowa's Woodlands and Trees (the Coalition). Each representative made two comments on the rule and submitted comments in writing as well. INEDA requested the Department include the production of mulch in the description of "silvicultural activities" and add beekeeping to its "agricultural production" definition. The Department declined to make these changes as they are beyond the intended scope of this rule making. The Coalition suggested adding additional terms to clarify the extent of the activities included in "silviculture" and removing references to "fir" trees raised as Christmas trees, since other tree varieties may be raised as Christmas trees. The Department made changes to the rule to reflect these suggestions. The Department made no changes to Items 3 through 7. Identical written comments were received, reflected in the description above.

REVENUE DEPARTMENT[701](cont'd)

Adoption of Rule Making

This rule making was adopted by the Department on November 12, 2020.

Fiscal Impact

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

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 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 January 6, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend rule **701—211.1(423)**, definitions of “Agricultural production” and “Plants,” as follows:

“*Agricultural production*” is limited to what would ordinarily be considered a farming operation undertaken for profit. The term “agricultural production” refers to the raising of crops or livestock for market on an acreage. ~~See *Bezdek’s Inc. v. Iowa Department of Revenue* (Linn County District Court, May 14, 1984).~~ Included within the meaning of the phrase “agricultural production” is any feedlot operation whether or not the land upon which a feedlot operation is located is used to grow crops to feed the livestock in the feedlot and regardless of whether or not the livestock fed are owned by persons conducting the feedlot operation, and operations growing and raising hybrid seed corn or other seed for sale to nurseries, ranches, orchards, and dairies. “Agricultural production” includes the raising of flowering, ornamental, or vegetable plants in commercial greenhouses or elsewhere for sale in the ordinary course of business. “Agricultural production” also includes any kind of aquaculture; silviculture; commercial greenhouses; and raising catfish. ~~Logging, production of Christmas trees, beekeeping, Beekeeping~~ and the raising of mink, other nondomesticated furbearing animals, and nondomesticated fowl (other than ostriches, rheas, and emus) continue to be excluded from the term “agricultural production.” The above list of exclusions and inclusions within the term “agricultural production” is not exhaustive. “Agricultural products” includes flowering, ornamental, or vegetable plants and those products of aquaculture and silviculture.

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

REVENUE DEPARTMENT[701](cont'd)

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

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

“*Silviculture*” means the establishment, growth, care, and cultivation of trees. “Silvicultural activities” includes logging. “Silvicultural products” includes trees raised and offered for sale for Christmas trees and any trees raised to be harvested for wood.

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

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

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

“*Fuel*” includes electricity.

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

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

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

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

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

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

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

(3) Calculating proportional exemption. It may be possible to calculate the amount of total fuel used in plant production by dividing the number of square feet of the greenhouse heated or cooled and used for raising flowering, ornamental, or vegetable plants by the number of square feet heated or cooled in the entire greenhouse. It may be necessary to alter this formula (by the use of separate metering, for example) if a greenhouse has a walk-in cooler and the cooler is used directly in flowering, ornamental, or vegetable plant production. See 701—subrule 15.3(3) regarding fuel exemption certificates and subrule 226.18(12) regarding seller’s and purchaser’s liability for sales tax.

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

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

REVENUE DEPARTMENT[701](cont'd)

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

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

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

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

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

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

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

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

[Filed 11/12/20, effective 1/6/21]

[Published 12/2/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/2/20.

ARC 5301C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rule making related to waivers

The Department of Transportation hereby amends Chapter 11, "Waiver of Rules," and Chapter 112, "Primary Road Access Control," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

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

TRANSPORTATION DEPARTMENT[761](cont'd)

Purpose and Summary

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

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 5180C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on November 10, 2020.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s 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 6, 2021.

The following rule-making actions are adopted:

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

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

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

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

[Filed 11/12/20, effective 1/6/21]

[Published 12/2/20]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/2/20.

ARC 5302C**TRANSPORTATION DEPARTMENT[761]****Adopted and Filed****Rule making related to indicators for autism and hearing impairment**

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

Legal Authority for Rule Making

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

State or Federal Law Implemented

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

Purpose and Summary

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

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

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

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 5179C**. No public comments were received. Items 2 and 5 that were included in the Notice of Intended Action were removed because they are no longer necessary. These items simply added references to the 2020 legislation, House File 2372 and House File 2585, within two implementation sentences in Chapters 605 and 630.

Adoption of Rule Making

This rule making was adopted by the Department on November 10, 2020.

Fiscal Impact

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

Jobs Impact

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

TRANSPORTATION DEPARTMENT[761](cont'd)

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on January 6, 2021.

The following rule-making actions are adopted:

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

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

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

ITEM 2. Amend rule 761—605.10(321) as follows:

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

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

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

This rule is intended to implement Iowa Code section 321.191.

ITEM 3. Amend subrule 630.2(4) as follows:

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

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

[Filed 11/12/20, effective 1/6/21]

[Published 12/2/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/2/20.

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.

AGENCY	RULE	DELAY
Revenue Department[701]	18.32, 213.24 [IAB 10/7/20, ARC 5201C]	Effective date of November 11, 2020, delayed until the adjournment of the 2021 session of the General Assembly by the Administrative Rules Review Committee at its meeting held November 10, 2020. [Pursuant to §17A.8(9)]